

Bank Act of California

INCLUDING 1921 AMENDMENTS

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BLYTH, WITTER & CO.
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California Laws, Statutes, &c.

BANK ACT OF CALIFORNIA

INCLUDING 1921 AMENDMENTS



COMPILED BY

BLYTH, WITTER & Co.

MERCHANTS EXCHANGE

San Francisco

NEW YORK

LOS ANGELES

SEATTLE

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2

FOREWORD

In submitting our revised edition of the Bank Act of California to embody the amendments adopted at the 1921 Session of the Legislature, we have been guided by the same principles observed in the publication of the original edition two years ago, *namely*, to prepare a volume easy of reference and convenient in form.

Immediately following the amended sections, brief publishers' notes indicate the effect of the amendment, thus obviating the necessity of comparing the present with the previous reading.

We acknowledge the valued assistance of the California Bankers' Association in providing a synopsis of the amendments, as well as the painstaking work of Robert C. Young, of the San Francisco Bar.

BLYTH, WITTER & CO.

July, 1921.

TABLE OF CONTENTS

ARTICLE I.

General Provisions Sections 1- 58, inclusive

ARTICLE II.

Savings Banks Sections 60- 70, inclusive

ARTICLE III.

Commercial Banks Sections 80- 85, inclusive

ARTICLE IV.

Trust Companies Sections 90-107, inclusive

ARTICLE V.

State Banking Department Sections 120-147, inclusive

APPENDIX

Text of certain laws referred to in the Bank Act, and other
banking laws Pages 177-212, inclusive

COMPLETE CROSS INDEX See last pages

BANK ACT OF CALIFORNIA

AN ACT TO DEFINE AND REGULATE THE BUSINESS OF BANKING

*The People of the State of California, Represented in Senate and Assembly
Do Enact as Follows:*



ARTICLE I. GENERAL PROVISIONS.

Section 1. This act shall be known as the "bank act," Act named "bank act." and shall be applicable to all corporations specified in the next section and to such other corporations as shall subject themselves to special provisions and sections thereof, and to such other persons, associations, copartnerships or corporations who shall, by violating any of its provisions, become subject to the penalties provided therein.

[Publishers note, re Section 1, as amended 1921:
Amendment adds, to those to whom the act applies, "such other corporations as shall subject themselves to special provisions and sections thereof."]

Section 2. The word "bank" as used in this act shall "Bank" defined. be construed to mean any incorporated banking institution which shall have been incorporated to conduct the business of receiving money on deposit, or transacting a trust business as herein defined. The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business shall be deemed to be doing a commercial or savings bank business whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass book, a note, a receipt or other writing; provided, that nothing herein shall apply to or include money or its equivalent left in escrow or left with an agent, pending investment in real estate or securities for

What deemed commercial or savings bank business.

Transacting banking business otherwise than by means of banking corporation—unlawful.

or on account of his principal. It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state except by means of a corporation duly organized for such purpose. Banks are divided into the following classes:

- (a) Savings banks;
- (b) Commercial banks; and
- (c) Trust companies.

Method of organizing banking corporations.

Section 3. Corporations may be organized by any number of natural persons, not less in any case than three, under the laws of this state to conduct, as provided in this act, and not otherwise, any one or more or all of the businesses mentioned in divisions (a), (b), and (c) of section two, of this act.

"Savings bank" defined. Section 4. The term "savings bank," when used in this act, means a bank organized for the purpose of accumulating and loaning the funds of its members, stockholders, and depositors, and which may loan and invest the funds thereof, receive deposits of money; loan, invest and collect the same with interest; and may repay depositors with or without interest, and having power to invest said funds in such property, securities and obligations as may be prescribed by this act; and to declare and pay dividends on its general deposits, and a stipulated rate of interest on deposits made for a stated period or upon special terms.

"Commercial bank" defined. Section 5. The term "commercial bank," when used in this act, means any bank authorized by law to receive deposits of money, deal in commercial paper or to make loans thereon, and to lend money on real or personal property, and to discount bills, notes or other commercial paper, and to buy and sell, and advertise for purchase or sale, such securities as are permissible for investment by commercial banks, gold and silver bullion, or foreign

Commercial bank acting as agent for insurance company. coins or bills of exchange; provided, any commercial bank located and doing business in any place the popula-

tion of which does not exceed five thousand persons, as shown by the last preceding federal census, or any subsequent census compiled and certified under any law of this state, may, under such rules and regulations as may be prescribed by the superintendent of banks, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State of California to do business in this state, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said bank and the insurance company for which it may act as agent; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission; provided, however, that no such bank shall in any case guarantee either the principal or interest of any such loans or assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal; and provided, further, that said bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

Bank acting as real estate and loan broker.

Shall not guarantee or assume such loans or payment of premiums.

[Publishers' note, re Section 5, as amended 1921:

This amendment authorizes a bank, in addition to acting as insurance agent, to "act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission." The bank shall not in any case "guarantee the principal or interest of any such loans."]

Section 6. The term "trust company," when used in this act, means any corporation which is incorporated under the laws of this state for the purpose of conducting the business of acting as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law.

"Trust company" defined.

Section 7. No foreign corporation shall transact a banking business in this state without first complying with all the requirements of the laws of this state relative to

Foreign Corporations. Prerequisites to transacting business in this State.

banks as defined in this act, and without having assigned to its business in this state the amount of paid-up capital and surplus required by this act for the transaction of such business within this state. No foreign banking corporation shall transact business in this state until such corporation has made the assignment of capital required by this section and has received a certificate from the superintendent of banks; provided, that a foreign bank-

Hereafter not to receive deposits.
(Exception)

But may transact in State specified business.

the business of buying or selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans; and provided, further, that those foreign banking corporations that now have power to do a banking business in this state and which now receive deposits of money shall be permitted to continue to accept money on deposit. Any foreign banking corporation transacting business in this state shall become subject to the supervision of the state superintendent of banks. Every foreign banking corpora-

Subject to State laws.

tion, including those which were on January second, nineteen hundred thirteen, transacting business in this state, which receives any deposits or transacts any other banking business or transacts its business in such a manner as might lead the public to believe that its business is that of a bank shall conduct all its business in accordance with the statutes governing incorporated banking institutions organized under the laws of this state. The capital

Capital assigned to business in this State, etc., to be kept separate.

of any such foreign banking corporation assigned to its business in this state and all funds and deposits of money received by any such corporation in this state or for or in connection with its business in this state and all accounts and transactions of said business transacted by any such foreign corporation in this state shall be kept separate and apart from the general business, assets and accounts

of such foreign corporation in the same manner as if the business of such foreign corporation conducted within this state was that of a separate and independent corporation organized under the laws of this state for the purpose of doing a banking business and all of the provisions of this act affecting investments, loans of money, receiving deposits and conducting business in any respect shall be deemed to apply to such assigned capital, investments, loans, deposits, assets, funds and business in the same manner as if such assigned capital, investments, loans, deposits, assets, funds and business were that of such separate and independent corporation; provided, that loans may be made by any such foreign corporation based on its entire paid-up capital and surplus in case such foreign corporation shall have assigned to its business in this state a paid-up capital and surplus as above provided equal to twenty per centum of the deposit liability of such branch agency or office to residents of this state. Such funds and investments or loans thereof shall be appropriated solely to the security and payment of such deposits, and shall not be mingled with the investments of the capital stock or other money or property belonging to such corporation or be liable for the debts or obligations thereof. All income received from the investment of such funds over and above such funds as may be paid to depositors as interest or shall be carried to the surplus fund, as provided in section twenty-one of this act, shall accrue as profits to the corporation and may be transferred to its general funds. No such foreign corporation shall transact any banking business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent or his successor in office, its true and lawful attorney, upon whom all process issued by authority of or under any law of this state may be served, with the same effect as if such corporation was formed under the laws of this state and had been lawfully served with process therein. Such

Provisions of Act
affecting investments,
deposits, etc., apply
to assigned capital.

Loans made by for-
eign corporations—
their basis.

Income from invest-
ment of funds—how
applied.

Further prerequisites
to doing business—
Filing appointment
of Supt. as attorney,
etc.

service upon such attorney shall be deemed personal service on such corporation. The superintendent of banks shall forthwith forward by mail, postage prepaid, a copy of every process served upon him under the provisions of this section, addressed to the manager or agent of such corporation, at its principal place of business in this state. For each copy of process, the superintendent of banks shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of the service, to be recovered by him as a part of his taxable costs if he succeed in the suit or proceeding. No foreign corporation shall have or exercise in this state the power to

Foreign corporation
not to have any trust
company powers, or
powers specified in
Sec. 6, except in this
State may exercise
powers permitted to
foreign corporations
by Sec. 90, and act
as executor or trus-
tee under will.

receive deposits of trust moneys, securities or other personal property from any person or corporation or any of the powers specified in section six of this act, nor have or maintain an office in this state for the transaction of, or transact, directly or indirectly, any such or similar business, except that a trust company incorporated in another state may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of

section ninety of this act and may be appointed and may accept appointment and may act in this state as executor of or trustee under the last will and testament of any deceased person, upon giving the bond required in such cases of individuals unless waived by the last will and testament making such appointment and by taking and subscribing an oath for faithful performance of such trust by the president, vice president, secretary, manager or trust officer of said corporation; provided, that such superintendent of banks, for the time being, shall be attorney of such foreign corporation qualifying or acting in this state as such executor or trustee, upon whom process against such foreign corporation may be served in any action or legal proceeding against such executor or trustee affecting or relating to the estate or property represented or held by such executor or trustee, or any act or default of such foreign corporation in

reference to such estate or property, and it shall be the duty of such foreign corporation so qualifying or acting to file in the office of said superintendent of banks a copy of its articles of incorporation, or of the statute chartering such corporation, certified by its secretary under its corporate seal, together with the post-office address of its home office, and a duly executed appointment of said superintendent of banks as its attorney to accept service of process as above provided, and said superintendent of banks, when any such process is served upon him, shall at once mail the papers so served to the home office of such corporation; and provided, further, that no foreign corporation which may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of section ninety of this act or having authority to act as executor or trustee under the last will and testament of any deceased person shall establish or maintain, directly or indirectly, any branch office or agency in this state, or shall in any way solicit, directly or indirectly, any business as executor or trustee therein, and that for any violation of this proviso, the court having jurisdiction of such executor or trustee in said proceeding may in its discretion, revoke the right of such foreign corporation thereafter to act as executor or trustee therein; provided, that nothing in this act shall limit or affect the right of any foreign corporation doing a banking business in this state, to lend within this state, moneys of such corporation which do not form a part of the moneys, deposits or assets of such corporation assigned or belonging to its business in this state.

Foreign corporation so acting to file copy of articles, etc., and appointment of Supt. as attorney, etc.

No foreign corporation having in State powers permitted by Sec. 90, etc., to maintain branch office or solicit business as executor or trustee.

Penalty for violation.

This section shall not be construed to prohibit foreign banking corporations, which do not maintain an office in this state for the transaction of business, from making loans in this state secured by mortgages on real property, nor from accepting assignments of mortgages covering real property situated in this state, nor from making loans

Foreign banking corporations not maintaining office here not prohibited from making mortgage loans, etc.

through correspondents which are engaged in the business of banking in this state under the laws of this state.

Requirements imposed upon every corporation applying for certificate of authority to do a banking business.

Section 8. Every corporation, at the time it applies for a certificate of authority to do a banking business, must file with the superintendent of banks a certified copy of its articles of incorporation, or of the statute chartering such corporation, a certified copy of its by-laws, and also a certified copy of all instruments amending or altering such articles of incorporation or charter or by-laws. Thereafter a certified copy of each amendment or certificate designed to increase or decrease the capital stock, to change the number of directors, to amend the articles of incorporation, to change the principal place of business, or the name of such corporation, or to effect any other organic change shall likewise be so filed before such instrument takes effect. Each certification required by the provisions of this section other than that of by-laws must be by the secretary of state.

Branch Banks.
Prerequisites for opening.

Section 9. No bank in this state, or any officer or director thereof, shall hereafter open or keep an office other than its principal place of business, without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office; provided, that no bank or any officer or director thereof, shall open or maintain any such branch office unless the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act by the sum of twenty-five thousand dollars for each branch office opened and maintained in the place where its principal business is transacted; and provided, that for each branch office opened or maintained by any bank, other than a bank transacting only the business described in

Capital required—Generally.
For each branch other than trust company branch outside principal place of business.

section six of this act, in any place in this state other than the place where the principal business of such bank is transacted, the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act in the sum required by this act for every bank hereafter organized in the place where each branch office is to be opened or maintained, exclusive of the capital required for a trust department; and, provided also, that for each branch office opened or maintained by any corporation which has power to transact only such business as is described in section six of this act or in section four hundred fifty-three x of the Civil Code, in any place in this state other than the place where the principal business of such corporation is transacted, the capital of such corporation, actually paid in, in cash, shall exceed the amount required by this act in the sum of twenty-five thousand dollars; and provided, further, that no branch office may be discontinued without the previous written approval of the superintendent of banks.

For branch opened
by trust company
or mortgage-insur-
ance company, etc.

Every bank, before it opens a branch office, shall obtain the certificate of authority of the superintendent of banks for the opening of each of said branch offices. The applicant shall pay for such certificate a fee of fifty dollars; provided, however, that, in order to encourage saving among the children of the schools of this state, a bank may, with the written consent of and under regulations approved by the superintendent of banks and, in case of public schools, by the board of education or board of school trustees of the city or district in which the school is situated, arrange for the collection of savings from the school children by the principal or teachers of such schools or by collectors. The principal, teacher or person authorized by the bank to make collections from the school children shall be deemed to be the agent of the bank and the bank shall be liable to the pupil for all deposits made with such principal, teacher or other person, the same as if the deposits were made by the pupil

Certificate required
for opening branch.

Bank may arrange
for collection of sav-
ings in schools.

Penalty for violation of section.

directly with the bank. Every bank and every such officer or director violating the provisions of this section shall forfeit to the people of the state the sum of one hundred dollars for every day during which any branch office hereafter opened shall be maintained without such written approval.

Directors.

Section 10. No person shall be eligible for election as director of a bank having a capital stock unless he is a stockholder of the bank, owning, in his own right, shares thereof of the par value of at least five hundred dollars; and every person elected to be director who, after such election, shall cease to be the owner in his own right of the amount of such stock aforesaid, or shall hypothecate or in any way pledge such stock as security for any loan or debt shall immediately notify the superintendent of banks in writing of such sale or hypothecation and such director may be removed from the office of director by the superintendent of banks; provided, however, that any executor or executrix, administrator or administratrix holding shares of a bank of the par value of five hundred dollars, in his or her representative capacity shall be eligible for election as a director thereof. If a bank be organized without capital stock, no person shall be eligible as a director thereof unless he is both a member and a depositor of such bank.

Executor or administrator when eligible as director.

Directors' Meetings to be held at least once a month.

Oath of directors.

Section 11. The board of directors of a bank organized under the laws of this state must hold a meeting in its banking premises at least once a month. Each such director, when appointed or elected, shall take an oath that he will, as far as the duty devolves on him, diligently and honestly administer the affairs of such bank, and will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to such bank, and that he is the owner in good faith and in his own right of shares of stock of the par value required by section ten of this act, subscribed by him or standing in his name on the books

of the bank, and that the same to an amount equal to the par value of at least five hundred dollars, are not hypothecated or in any way pledged as security for any loan or debt. Such oath shall be subscribed by the director making it, certified by the officer before whom it is taken, and immediately transmitted to the superintendent of banks and filed and preserved in his office; provided, the managers or agents residing in this state, of a foreign corporation transacting any banking business in this state, shall take an oath that they will, as far as the duty devolves on them, diligently and honestly administer the affairs of such bank, and will not knowingly violate or wilfully permit to be violated any of the provisions of law applicable to such bank. Such oath shall be subscribed by the managers or agents taking it, certified by the officer before whom it is taken, and immediately transmitted to the superintendent of banks and filed and preserved in his office.

Oath required of
Resident Managers
or Agents.

Section 12. No person, firm, company, copartnership or corporation, either domestic or foreign, not subject to the supervision of the superintendent of banks, and not required, by the provisions of this act, to report to him, and which has not received a certificate to do a banking business from the superintendent of banks, shall advertise that he or it is receiving or accepting money or savings, and issuing notes or certificates of deposit therefor, or shall make use of any office sign, at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank or trust company, that deposits are received there or payments made on check, or any other form of banking business transacted, nor shall any such person or persons, firm, company, copartnership or corporation, domestic or foreign, make use of or circulate any letterheads, billheads, blank notes, blank receipts, certificates or circulars, or any

Person, firm, corporation, etc., not subject to supervision of Supt., and unauthorized under Act—shall not advertise acceptance of money or savings, or do acts inducing belief that place or office is that of bank or trust company.

Shall not use stationery, name or words indicating place or office is that of bank or trust company, etc.

written or printed, or partly written and partly printed, paper, whatever, having thereon any artificial or corporate name or other word or words indicating that such business is the business of a bank, savings bank or trust company; nor shall any such person, firm, company, copartnership or corporation, or any agent of a foreign corporation not having an established place of business in this state, solicit or receive deposits or transact business in the way or manner of a bank, savings bank or trust company, or in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank or trust company. Nor shall any person, firm, company, copartnership or corporation, domestic or foreign, not subject to the supervision of the superintendent of banks, and not required by the provisions of this act to report to him, and which has not received from the superintendent of banks a certificate to do a banking business, hereafter transact business under any name or title which contains the word "bank," or "banker," or "banking," or "savings bank," or "savings" or "trust" or "trustee" or "trust company"; provided, that this section shall not apply to the corporate name of any building and loan association now or heretofore doing business in this state; and provided, further, that any such association having in its corporate name words not clearly indicating the nature of its business shall, on all signs, letterheads and advertising matter, state "This is a building and loan association" or words to that effect; and provided, further, that any building and loan association may borrow money, issue investment certificates or evidences of indebtedness, stating the rate of interest and terms and conditions of repayment, and do such other business as may be authorized by the laws of the state relating to building and loan associations; and provided, further, that no such association shall advertise or hold itself out to the public as a savings bank. Any person, firm, company, copartnership or corporation, domestic or foreign, violating any

Section shall not apply to name of existing Bldg. & Loan Assn.

Nature of business of Bldg. & Loan Assn. must be shown by its title or advertising.

provision of this section shall forfeit to the state one hundred dollars a day for every day or part thereof during which such violation continues. Upon action brought by the superintendent of banks the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further using such words in violation of the provisions of this section or from further transacting business in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank or trust company during the pendency of such action and for all time and may make such other order or decree as equity and justice may require.

Section 12a. Every person, firm, company, copartnership or corporation, domestic or foreign, advertising that he or it is receiving or accepting money or savings, and issuing notes or certificates of deposit therefor, or advertising that he or it is transacting the business of a bank, savings bank or trust company, or making use of any office sign at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank, or trust company, or that deposits are received there or payments made on check, or that interest is paid on deposits, or that certificates of deposit, either with or without interest are being issued, or that any other form of banking business is transacted, and every person, firm, company, copartnership or corporation, domestic or foreign, making use of or circulating any letterheads, billheads, blank notes, blank receipts, certificates or circulars, or any written or printed, or partly written and partly printed, paper, whatever, having thereon any artificial or corporate name, or advertising that such business is the business of a bank, savings bank or trust company, must have the proper capital stock paid in and set aside for the purpose of transacting such business, and must have received from the superin-

Every person, firm, corporation, etc., domestic or foreign—

Advertising transaction of banking, savings bank or trust company business, in any form, etc.

Must have proper capital paid in and set aside and have received certificate from Supt.

Penalty.

tendent of banks, as provided for in this act, a certificate to do a banking business. Any person, firm, company, copartnership or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state one hundred dollars a day for every day or part thereof during which such violation continues. Upon action brought by the superintendent of banks the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further violating any provision of this section, and may make such further order or decree as equity and justice may require. Every person, firm, company, copartnership or corporation

Every person, firm,
corporation, etc.,
transacting any busi-
ness defined in Sec.
must do so under
Bank Act.

doing any of the things or transacting any of the business defined in this section, must transact such business according to the provisions of the bank act, and the superintendent of banks or his deputy or examiners shall have authority to examine the accounts, books and papers of every such person, firm, company, copartnership or corporation, domestic or foreign, in order to ascertain whether such person, firm, company, copartnership or corporation has violated or is violating any provisions of this section; provided, that this section shall not apply to the corporate name of any building and loan association

Section not applicable
to corporate name of
existing Bldg. &
Loan Assn.

now or heretofore doing business in this state; and provided, further, that any such association having in its corporate name words not clearly indicating the nature of its business shall, on all signs, letterheads and advertising matter, state: "This is a building and loan association" or words to that effect; and provided, further, that any building and loan association may borrow money,

Any Bldg. & Loan
Assn. may borrow
money, etc.

issue investment certificates or evidences of indebtedness, stating the rate of interest and terms and conditions of repayment, and do such other business as may be authorized by the laws of the state relating to building and loan associations; and provided, further, that no such association shall advertise or hold itself out to the public as a savings bank.

No Bldg. & Loan
Assn. shall hold itself
out as a savings bank.

Section 12b. Nothing in this act shall be construed or held to apply to any corporation organized under the laws of any other state which is authorized by its charter or articles of incorporation to transact the business of life insurance and also to be known as and to transact business as a trust company and which shall have complied with the laws of the state affecting the transaction in this state of the business of life insurance by a foreign corporation and which shall have heretofore engaged in such business of life insurance in this state, in such manner as to forbid or prevent its making use of its corporate title in its life insurance business in this state in any such way and to any such extent as it might have made use of the same if this act had not been passed.

Right of foreign corporation chartered as life insurance and trust company to use corporate title.

Section 12c. Any corporation organized under the laws of any country or state other than this state which has complied with all of the laws of this state pertaining to foreign corporations and is not engaged in the business of banking or receiving money on deposit in this state may lend money or buy and sell bonds in this state, and for that purpose, may maintain offices in this state, and sue and be sued in this state under its proper corporate name, notwithstanding any prohibitions contained in this act as to the use of any words in the name, signs or advertising matter of corporations not under the supervision of the superintendent of banks; provided, that nothing in this act shall be construed to prohibit any representative of any foreign banking corporation from maintaining an office in this state as the office of a representative and not the place of business of a bank or trust company, nor to prohibit such representative from making use of any office sign at the place where such representative's office is maintained having thereon words indicating that such office is the place of business of a representative of a foreign bank or trust company; and provided, further, that any representative of a foreign bank maintaining an office within this state may make use of such foreign bank's

Foreign corporation complying with laws of California not engaged in banking may maintain State offices to lend money, buy or sell bonds, etc.

Representative of foreign banking or trust company not prohibited from maintaining as such State office.

Such representative may use foreign bank's printed matter in transacting business as representative.

letterheads, circulars and other printed matter in the transaction of business as such representative; and provided, further, every representative of any foreign bank or trust company before opening an office as a representative shall have received a license from the superintendent of banks to open such representative's office. Such license may be issued upon application to the superintendent of banks and the payment of an annual license fee of fifty dollars and may be refused or revoked by the superintendent of banks at his discretion.

Such representative must first obtain license from Supt. to open office.

Power of bank, R. R., steamship and and express companies to handle foreign exchange.

Requirements for corporations so engaged.

Section 13. No person, firm or corporation, except banks and duly incorporated and qualified railroad, steamship and express companies, or general travel and tourist copartnerships and corporations that are in actual international operation, shall engage in this state in the business of receiving money for the purpose of transmitting the same, or the equivalent thereof, to foreign countries. Every such company shall, within thirty days after the date this section goes into effect, and thereafter on or before the first day of January and the first day of July in each year file with the superintendent of banks a certificate specifying each place in this state where such company maintains its own office where money is or will be received for transmission to foreign countries, and the person or persons in such office authorized to receive money for such purpose; and shall, also within thirty days after this act goes into effect file with the superintendent of banks a certificate specifying the name and business address of every person, not regularly employed by it in its own office, who is authorized to receive money for the purpose of transmitting the same, or the equivalent thereof, to foreign countries; and each person specified in such certificates shall be the designated agent of the company making the certificate for all purposes connected with or incident to the receipt and transmission of money or its equivalent to foreign countries.

Whenever any such agent who is not regularly employed by any such company in its own office is replaced, or an additional agent, who is not so employed by any such company, is authorized to receive money for the purpose of transmitting same, or the equivalent thereof as aforesaid, notice of such fact and of the name of the person replacing the original agent, or the name of such additional agent, shall be certified forthwith to the superintendent of banks; and such person shall thenceforth be the designated agent of such company aforesaid until notice of the termination of such agency is filed with the superintendent of banks. The deposit hereinafter required shall be in addition to and not in lieu of the primary liability of any such company for the acts of its designated agents.

At the time of filing the certificate first herein required, and before any agent of any such company is authorized to transact any business hereunder, the company filing such certificate shall deposit with the treasurer of state, upon authorization of the superintendent of banks in the manner provided by section ninety-six of this act, the sum of fifty thousand dollars in lawful money of the United States, or in the securities specified in section ninety-six of this act; in case such deposit is in securities, the company making the same shall have the privilege of withdrawal, substitution and collection of interest provided in said section; or in lieu thereof such company shall execute and deliver to the superintendent of banks, who shall deposit it with the treasurer of state, a bond or other surety acceptable to the superintendent of banks in the sum of fifty thousand dollars to cover money received by any and all its agents in this state for the purpose of transmission to foreign countries; such bond or other surety to be conditioned upon the faithful holding and transmission of money, or the equivalent thereof, which shall be delivered to or deposited with any such agent for transmission to a foreign country, for the benefit of such per-

Deposit or bond
required for trans-
mission of money to
foreign countries.

sons as shall deliver to or deposit money with any such agent of such company for such purpose. Such bond shall be executed by such company with a corporate surety company, acceptable to the superintendent of banks, as surety. Such moneys or securities deposited with the treasurer of state and the money which in case of default shall be paid on such bond or other surety shall constitute a trust fund for the benefit of such persons as shall deliver to or deposit with any such designated agent of such company money for transmission to foreign countries as aforesaid; suit to recover on any such bond or other surety may be brought by or upon the relation of any party aggrieved, in a court of competent jurisdiction of any county in which such company has an agent; and service of summons on any agent of such company shall be sufficient. All moneys received for transmission

*Suit to recover
on such bond or
surety—how brought.*

*How moneys for-
warded and received
for.*

Penalty.

to a foreign country by a railroad, steamship or express company shall be forwarded to the person to whom the same is directed to be transmitted within ten days after the receipt thereof. The receipt given by any such company by its agent or agents, for deposits of money received for transmission to a foreign country shall be on a form or forms certified copies of which have first been filed with the superintendent of banks; in case of use by any such company of a form or forms for this purpose certified copies of which have not been filed with the superintendent of banks, whether the use of such receipts is authorized or not, shall not relieve such company of its liability for the acts of such agent hereunder and such company shall be subject to a penalty of fifty dollars for every such violation.

*Inspection of
Agent by Supt.*

Every agent of any such company not regularly employed in its own office shall be subject to inspection and examination by the superintendent of banks in order to ascertain that such business is being lawfully conducted, and that all moneys received are properly accounted for; for which purpose the superintendent of banks may also

prescribe the manner and form of keeping the books and accounts of such agent.

Whenever the superintendent of banks upon his own determination makes an examination of any such agent transacting or about to transact business under the provisions of this section, the expenses thereof shall be paid by the company represented by such agent.

Every railroad, steamship and express company transacting business in this state under this section shall annually, on or before the fifteenth day of March, file with the superintendent of banks its duly verified report, in the form prescribed by the superintendent of banks, showing in such detail as may be required by him, its business and transactions during the preceding calendar year relative to the receipts and transmission of money to foreign countries. The superintendent of banks shall have the power to revoke the authority to transact such business in this state of any railroad, steamship or express company which fails to make and file such annual report as herein provided.

Annual Report by such companies.

Penalty for failure to make report.

Every railroad, steamship or express company transacting business in this state under this section shall pay to the superintendent of banks on or before the first day of July in each year a fee of two hundred fifty dollars.

Annual fee payable to Supt.

This section shall not apply to the receipt of money for immediate transmission by telegraph by the duly authorized agent of any duly incorporated telegraph company, at any regularly established office of such company.

Telegraph companies excepted.

Whoever, not being an authorized officer or employee of a bank, or the duly designated agent for that purpose of a railroad, steamship or express company, holds himself out as authorized to receive, or solicits, or receives money for the purpose of transmitting the same, or the equivalent thereof, to foreign countries, shall, upon conviction, be fined not more than five thousand dollars or

Penalty for unauthorized soliciting or receiving money for transmission.

imprisoned in the penitentiary not more than ten years, or both.

[Publishers' note, re Section 13, as amended 1921:

The purpose of this very material amendment is the regulation and control of dealings in foreign exchange. Only banks, duly incorporated, and qualified railroad, steamship and express companies, general travel and tourist copartnerships and corporations may receive money for transmission to foreign countries. The amendment does not affect banks directly, but prescribes the method for transacting this business by railroad, steamship and express companies. They must assign to the business in this State capital of not less than the amount required for a bank in the largest place where such company has an office or agency. They must also file a list of agents with the superintendent of banks, and deposit \$50,000 in money or in securities or put up a bond in that amount.

The superintendent of banks may prescribe the method of keeping books and accounts, and shall examine the agents and companies doing this business. Such companies shall make an annual report to the superintendent and pay a fee of \$250 a year.]

Advertisement of capital.

Section 14. No bank, or officer thereof, shall advertise in any manner, or publish any statement of the capital authorized or subscribed, unless it or he advertise and publish in connection therewith, the amount of capital actually paid up. No bank shall publish a statement of its resources or liabilities in connection with those of any other bank, unless such statement shall show the resources and liabilities of each bank separately; nor shall surplus and undivided profits be advertised as an aggregate.

All deposits, unclaimed or not withdrawn for 20 years, to be deposited with State Treasurer, after judgment, as provided by law.

Section 15. All amounts of money heretofore or hereafter deposited with any bank to the credit of depositors who have not made a deposit on said account or withdrawn any part thereof or the interest and which shall have remained unclaimed for more than twenty years after the date of such deposit, or withdrawal of any part or principal or interest, and where neither the depositor or any claimant has filed any notice with such bank showing his or her present residence, shall, with the increase and proceeds thereof, be deposited with the state treasurer after judgment in the manner provided in the Code of Civil Procedure. At the time of issuing the summons in the action provided for in section 1273 of the Code of Civil Procedure, the clerk shall also issue a notice signed by him, giving the title and number of said action, and referring to the complaint therein, and directed to all persons, other than those named as defendants therein,

Court procedure to be followed in obtaining such judgment against bank and all claimants.

claiming any interest in any deposit mentioned in said complaint, and requiring them to appear within sixty days after the first publication of such summons, and show cause, if any they have, why the moneys involved in said action should not be deposited with the state treasurer as in said section provided, and notifying them that if they do not so appear and show cause, the state will apply to the court for the relief demanded in the complaint. A copy of said notice shall be attached to and published with the copy of said summons required to be published by said section, and at the end of the copy of such notice so published there shall be a statement of the date of the first publication of said summons and notice. Any person interested may appear in said action and become a party thereto. Upon the completion of the publication of the summons and notice, and the service of the summons on the defendant bank, or banks, as in said section 1273 of the Code of Civil Procedure provided, the court shall have full and complete jurisdiction over the state, and the said deposits and of the person of every one having or claiming any interest in the said deposits, or any of them, and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate judgment thereon.

The president or managing officer of every bank must, within fifteen days after the first day of January of every year, return to the superintendent of banks and to the state controller a sworn statement showing the names of depositors known to be dead, or who have not made further deposits, or withdrawn any moneys during the preceding twenty years. Such statement shall show in detail the following matters, viz.:

First—The name and last known place of residence or postoffice address of the person making such deposit;

Second—The amount and date of such deposit and

Any person interested may become party to action.

President or managing officer of bank must annually return sworn statement showing matters set forth in section.

whether the same are in moneys or securities, and if the latter, the nature of the same;

Third—The interest due on such deposit, if any, and the amount thereof;

Fourth—The sum total of such deposit, together with the interest added thereto due from such bank on account of such deposit or deposits and the interest thereon to such depositor, but nothing contained herein shall require any corporation or person renting lock boxes or safes in vaults for storage purposes to open or report concerning property stored therein. Such reports itemized as aforesaid shall be signed by the person making the same and shall be sworn to before a person competent to administer oaths as a full, complete and truthful statement of each of the items therein contained.

*Aforesaid reports
shall be sworn to.*

*Bank must return
biennial statement
of depositors de-
ceased or not making
or withdrawing de-
posits during preced-
ing 10 years.*

*What such state-
ments shall show.*

*Notice of deposits to
be published.*

Penalties.

The president or managing officer of every bank must, within fifteen days after the first day of January of every odd numbered year, return to the superintendent of banks a sworn statement showing the names of depositors known to be dead, or who have not made further deposits, or withdrawn any moneys during the preceding ten years. Such statements shall show the amount of the account, the depositor's last known place of residence or post-office address, and the fact of death, if known to such president or managing officer. Such president or managing officer must give notice of these deposits in one or more newspapers published in or nearest to the town or city where such bank has its principal place of business, at least once a week for four consecutive weeks, the cost of such publication to be paid pro rata out of such unclaimed deposits. The superintendent of banks must incorporate in his subsequent report such returns made to him as provided in this section. If any president or managing officer of any bank neglects or refuses to make the sworn statements required by this section such bank shall forfeit to the State of California the sum of one hundred

dollars a day for each day such default shall continue. Any president or managing officer of any bank who violates any of the provisions of this section shall forfeit to the State of California the sum of one hundred dollars a day for each and every day such violation shall continue. For the purposes of this section all deposits received by any bank under the provisions of section thirty-one, section thirty-one a or section thirty-one b of this act shall be deemed to have been deposited with such bank at the time the deposit was made with the bank from which the deposit was transferred; provided, that any bank which shall make any deposit with the state treasurer in conformity with the provisions of this section shall not thereafter be liable to any person for the same and any action which may be brought by any person against any bank for moneys so deposited with the state treasurer shall be defended by the attorney general without cost to such bank.

Date of receipt of deposits transferred from another bank, etc.

Bank making deposit with State Treasurer under Section not thereafter liable.

[Publishers' note, re Section 15, as amended 1921:

This section is the same as the old Section 15 with the exception that the amended section omits the provision that "this section does not apply to any deposit by or in the name of a person known to the president or managing officer to be living."

A copy of Section 1273, Code of Civil Procedure, which section is referred to in the above section, is set forth in the Appendix at the end of this Act.]

Sec. 15a. When any deposit shall be made by or in the name of any minor, the same shall be held for the exclusive right and benefit of such minor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends thereon, to the person in whose name the deposit shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge to such savings bank for such deposit or any part thereof.

Deposits by or in name of minor.

When any deposit shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to such savings bank, in the event of the death of the trustee, the deposit or any part thereof,

Deposits by one in trust for another when trust not in writing.

together with the dividends thereon, may be paid to the person for whom the deposit was made.

Joint deposits with
right of
survivorship.

When a deposit shall be made by any person in the names of such depositor and another person and in form to be paid to either or the survivor of them, such deposit and any additions thereto made by either of such persons after the making thereof, shall become the property of such persons as joint tenants, and the same together with all dividends thereon shall be held for the exclusive use of such persons and may be paid to either during the lifetime of both or to the survivor after the death of one of them, and such payment and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to such savings bank for all payments made on account of such deposit prior to the receipt by such savings bank of notice in writing not to pay such deposit in accordance with the terms thereof. The making of the deposit in such form shall, in the absence of fraud or undue influence, be conclusive evidence, in any action or proceeding to which either such savings bank or the surviving depositor is a party, of the intention of both depositors to vest title to such deposit and the additions thereto in such survivor.

[Publishers' note, re Section 15a, as amended 1921:

This new section authorizes (1) deposits by or in the name of a minor; (2) deposits by any person in trust for another with authorization that the deposit may, upon the death of the trustee, be paid to the person for whom the deposit was so made, unless the bank have written notice of the existence and terms of a legal trust; and (3) joint deposits with the right of survivorship.]

(Section 16. Repealed 1919.)

[Publishers' note, re Section 16, repealed 1919.

The first paragraph of Section 16 was simply declarative of the right of Savings Banks to indulge a joint deposit with right of survivorship. It was not deemed necessary to retain that part of the section. (See Crowley vs. Union Savings Bank and Trust Co., 30 Cal., App. 144, and McCarty vs. Holland, 30 Cal., App. 495.)

The second and last paragraphs of Section 16 of the Bank Act and Section 1454 of the Code of Civil Procedure were substantially the same. Both related to a privilege granted to certain surviving heirs of a deceased depositor in a bank to withdraw from that bank any sum not greater than \$1,000 if that sum is the aggregate of all moneys deposited in banks of this State by the deceased depositor. There was pending before the Legislature at the 1919 Session an amendment to said Section 1454 to permit, under similar conditions, the additional right of receiving personal property on deposit or in safe deposit boxes in an amount not to exceed \$500. In order not to provoke a conflict as between that Section and Section 16 of the Bank Act, Section 16 was repealed. The amendment to

Section 1454, however, failed of passage in 1919. A similar effort to have such statute enacted by the Legislature of 1921 was likewise unsuccessful. The subject is therefore governed by Section 1454 in its existing form. For a copy of said Section, see Appendix.]

Section 17. Every bank shall keep posted in its office, in a conspicuous place, accessible to the public generally, a notice signed by the president or secretary, showing:

Bank shall post in office accessible to public a list of directors and their share holdings.

1. The names of the directors of such bank.
2. The number and the par value of the shares of stock held by each director.

The entries on such book and such notice shall be made and posted within twenty-four hours after any transfer of stock, and shall be *prima facie* evidence against each director of the number of shares of stock held by each.

Entries on such book and notice to be posted within 24 hours after stock transfer.

[Publishers' note, re Section 17, as amended 1921:

This amendment eliminates the requirement, in the old section, that the bank shall keep a book containing a record of stockholders and the number of shares held by each, in a conspicuous place in its office.]

(Section 18. Repealed 1913.)

Section 19. The aggregate of paid-up capital together with the surplus, of every commercial bank, must equal the following percentages of its deposit liabilities:

Percentage of paid-up capital and surplus to deposits of commercial banks.

(a) Ten per centum of any amount up to and including two million dollars.

(b) Seven and one-half per centum of any amount in excess of two million dollars up to and including five million dollars.

(c) Five per centum of any amount in excess of five million dollars.

The aggregate of paid-up capital together with the surplus of every savings bank having a capital stock, and the reserve fund of every savings bank without a capital stock, must equal the following percentages of its deposit liabilities:

Percentage of paid-up capital and surplus of savings bank having capital stock, and reserve fund of savings bank without capital stock.

(d) Ten per centum of any amount up to and including one million dollars.

- (e) Seven and one-half per centum of any amount in excess of one million dollars up to and including three million dollars.
- (f) Five per centum of any amount in excess of three million dollars up to and including ten million dollars.
- (g) Two and one-half per centum of any amount in excess of ten million dollars up to and including twenty-five million dollars.
- (h) One per centum of any amount in excess of twenty-five million dollars.

Restriction on increase of deposits.

The deposits shall not be increased if such proportion of paid-up capital and surplus or reserve fund to deposit liabilities is not maintained, and in no event shall said paid-up capital be less than the minimum paid-up capital provided by this act; provided, that such deposit liabilities shall be exclusive of United States and postal savings deposits and deposits of the State of California and of any county and municipality in the State of California which are secured as required by law.

[Publishers' note, re. Section 19, as amended 1921:

This amendment provides that the aggregate of paid-up capital, together with the surplus, of every commercial bank, instead of being equal to ten per cent. of its deposit liabilities, as was previously the case, must equal the percentages specified in subdivisions (a), (b) and (c) of the section; and in the case of savings banks such paid-up capital and surplus must equal the percentages designated in subdivisions (d), (e), (f), (g) and (h).]

Commercial bank to maintain total reserves against aggregate deposits as specified.

Section 20. Every commercial bank shall maintain total reserves against its aggregate deposits, exclusive of United States and postal savings deposits and deposits of the State of California and of any county and municipality in the State of California, which are secured as required by law, as follows:

1. Eighteen per centum of such deposits if such bank has its principal place of business in a city having a population of one hundred thousand or over.
2. Fifteen per centum of such deposits, if such bank is located in a city having a population of fifty thousand or over and less than one hundred thousand.

3. Twelve per centum of such deposits if such bank is located elsewhere in the State.

At least one-half of the total reserves shall be maintained as reserves on hand and shall consist of gold bullion or any form of money or currency authorized by the laws of the United States, and the remainder of the total reserves required by the provisions of this section shall be maintained as reserves on deposit or as reserves on hand; such reserves on hand to consist of gold bullion or any form of money or currency authorized by the laws of the United States; provided, however, that all or any part of the reserves may be deposited, subject to call, with a federal reserve bank in the district in which such bank is located.

Total reserves: how maintained and constituted.

All or part of reserves may be deposited with Federal Reserve Bank.

If any bank shall have become a member of a federal reserve bank, it shall comply with the reserve requirements of the federal reserve act and its amendments, and its compliance therewith shall be in lieu of, and shall relieve such bank from compliance with, the provisions of this section.

Bank becoming member of Federal Reserve Bank to comply with requirements of Federal Reserve Act.

If any bank shall not maintain the total reserves required the superintendent of banks may impose a penalty upon it, based upon the length of time such encroachment upon its total reserves amounting to one per centum or more of its aggregate deposits shall continue, at the following rates:

Penalties for not maintaining total reserves required.

1. At the rate of six per centum per annum upon any such encroachment not exceeding two per centum of such deposits.

2. At the rate of eight per centum per annum upon any additional encroachment in excess of two and not exceeding three per centum of such deposits.

3. At the rate of ten per centum per annum upon any additional encroachment in excess of three and not exceeding four per centum of such deposits.

4. At the rate of twelve per centum per annum upon any additional encroachment in excess of four per centum of such deposits.

Designation by Supt.
of depositary for
reserves on deposit.

The superintendent of banks shall, in his discretion, upon the nomination of any bank, designate a depositary or depositaries for the reserves on deposit of such bank provided for by this act. Except as otherwise provided in this section, such depositary shall be a bank or national banking association located in this state. Every reserve depositary, which has its principal place of business in a judicial township or in a city located in this state in which the population is less than fifty thousand, shall have at all times as its total reserves an amount equal to the total reserves required by the provisions of this section for every bank which has its principal place of business in a city having a population of fifty thousand or over and less than one hundred thousand. But no bank or national banking association shall hereafter be designated as a depositary of any such reserves unless it shall have a combined capital and surplus of not less than the following amounts:

Requirements of bank
or Natl. Banking
Assn. to be desig-
nated as reserve de-
positary.

1. Two hundred fifty thousand dollars, if located in a city which has a population of three hundred thousand or over;
2. Two hundred thousand dollars, if located in a city which has a population of one hundred thousand or over and less than three hundred thousand;
3. One hundred fifty thousand dollars, if located in a city which has a population of fifty thousand or over and less than one hundred thousand;
4. One hundred thousand dollars, if located elsewhere in the state.

Such depositary may
also be banking cor-
poration with capital
and surplus as
specified.

Such depositary may also be a banking corporation with a capital and surplus of one million dollars or more, located in any city in the United States.

If the total reserves of any bank shall be less than the amount required by this section, such bank shall not increase its liabilities by making any new loans or discounts, otherwise than by discounting bills of exchange on sight, or by paying any dividends from profits until the full amount of its total reserves has been restored. Effect of impairment of total reserves.

The superintendent of banks may notify any bank whose total reserves shall be below the amount herein required, to restore such total reserves; and, if it shall fail for thirty days thereafter to restore such total reserves, such bank shall be deemed insolvent and may be proceeded against under the provisions of this act; provided, that all deposits of money herein permitted or required shall comply with the provisions of section forty-three of this act. Bank failing, after 30-day notice from Supt., to restore total reserves, deemed insolvent.

Deposits to comply with Sec. 43.

The term, "reserves on hand," when used in this act, means the reserves against deposits kept, pursuant to the provisions of this act, in the vault of any bank or in any safety deposit box in any other bank in this state, said box to be under the exclusive control of the depositing bank. Definitions—
"Reserves on hand."

The term, "reserves on deposit," when used in this act, means the reserves against deposits maintained by any bank pursuant to this act in reserve depositaries, or in a federal reserve bank in the district in which such bank is located and not in excess of the amount authorized by this act. "Reserves on deposit."

The term, "total reserves," when used in this act, means the aggregate of reserves on hand and reserves on deposit maintained pursuant to the provisions of this act. "Total reserves."

The term, "reserve depositary," when used in this act, means a bank, trust company or banking corporation designated by the superintendent of banks on the nomination of the depositing bank as a depositary for reserves on deposit. "Reserve depositary."

Directors of bank
having capital stock
may declare and
pay dividends, as
specified.

Section 21. The directors of any bank having a capital stock may, at certain times, and in such manner as its by-laws prescribe, declare and pay dividends to depositors and stockholders of so much of the profits of the bank, and of the interest arising from the capital, surplus and deposits, as may be appropriated for that purpose under its by-laws or under its agreements with depositors, but every such bank shall, before the declaration of any such dividend, carry at least one-tenth part of the net profits of the stockholders for the preceding half year, or for such period as is covered by the dividend, to its surplus, until such surplus shall amount to twenty-five per centum of its paid-up capital stock. The whole or any part of such surplus, if held as the exclusive property of the stockholders, may at any time be converted into paid in capital, in which event such surplus shall be restored in the manner above provided until it amounts to twenty-five per centum of the aggregate paid-up capital stock.

Surplus convertible
into paid-in capital
in which event sur-
plus to be restored.

Subject to the provisions of section nineteen of this act, any losses sustained by any such bank in excess of its undivided profits may be charged to and paid from its surplus, in which event such surplus shall be restored in the manner above provided, to the amount required by law; provided, however, that any bank which has invested any portion of its surplus in its bank premises, furniture and fixtures, vaults, or safe deposit vaults, and boxes necessary or proper to carry on its banking business shall not be permitted to charge any loss to that portion of its surplus so invested. A larger surplus may be created and nothing herein contained shall be construed as prohibitory thereof. The capital and assets of any such bank are a security to depositors and stockholders, depositors having the priority of security over stockholders.

Loses sustained in
excess of undivided
profits may be
charged to and
paid from surplus,
etc.

Depositors have
priority of security
over stockholders.

Preference to depos-
itor or creditor pro-
hibited, except as
otherwise author-
ized.

Section 21a. No bank, banker, or bank officer, shall give preference to any depositor or creditor except as otherwise authorized by law; provided, that any commer-

cial bank or commercial department of a departmental bank, is authorized and empowered for temporary purposes, to borrow money, or to borrow money and pledge or hypothecate as collateral security therefor, its assets not exceeding fifty per centum in excess of the amount borrowed, but only to the extent and upon terms and conditions as follows:

Provided, commercial bank may borrow money and pledge assets, within amount and upon conditions specified.

(1) Any amount up to, but not exceeding the amount of its capital and surplus, without consent of the superintendent of banks; provided, however, that any amount borrowed, except as otherwise provided in this section, in excess of the amount of its capital and surplus, at such time actually paid in and remaining undiminished by losses or otherwise, must first be approved in writing by the superintendent of banks; provided, also, that no excess loan made to any such bank shall be invalid or illegal as to the lender, even though made without the consent of the superintendent of banks; provided, also, that the rediscounting with or without guarantee or endorsement with a federal reserve bank, of notes, drafts, bills of exchange and loans secured by obligations of the United States, is hereby authorized and shall not be limited by the terms of this act, and shall not be considered as borrowed money within the meaning of this section.

Not exceeding capital and surplus; provisos as to excess loans.

Rediscounting, notes, loans, etc., with Federal Reserve bank not borrowed money.

(2) Any amount of California, state, county, city, city and county funds, or any other public money, in the manner it is or may be authorized by law to borrow and receive such public money on deposit without the approval of the superintendent of banks.

Public moneys or funds of State and its subdivisions.

(3) Any amount of the United States moneys and postal savings moneys of the United States, and receive such moneys on deposit, and pledge or hypothecate such of its securities and upon such terms as may be required by the laws of the United States or the rules and regulations of the secretary of the treasury of the United States, without the approval of the superintendent of banks.

U. S. moneys and postal savings and pledge of securities, under U. S. laws.

Buying from U. S.
bonds and other
U. S. obligations.

(4) Any amount, in addition to the amounts authorized to be borrowed in this section, for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States.

Rediscounting with
Federal Reserve
bank notes, etc., as
specified.

(5) To rediscount with and sell to a federal reserve bank any and all such notes, drafts, bills of exchange, acceptances and any other securities, with no other restrictions, and as fully, and to the same extent as this privilege is given to national bank members under the terms of the federal reserve act, or by regulations of the federal reserve board made pursuant thereto.

[Publishers' note, re Section 21a, as amended 1921:

The above is a re-enactment, unchanged, of the introductory paragraph and subdivisions (1), (2), (3), (4) and (5) of Section 21a as amended in 1919, and omits subdivisions (6), (7) and (8) of the 1919 amendment, which are, however, re-enacted in the next, new section, as 21b.]

Partial payments
upon deposit.

Section 21b. (1) No bank shall make partial payments upon any certificate of deposit.

90-day overdraft
not asset.

(2) In no case shall an overdraft of more than ninety days' standing be allowed as an asset of any bank.

Debt due commercial
bank, when bad
debt.

(3) Any debt due to any commercial bank, on which interest is past due and unpaid for the period of one year, unless the same is well secured, and is in process of collection, shall be considered a bad debt and shall be charged off to the profit and loss account at the expiration of that time.

[Publishers' note, re Section 21b, re-enacting, 1921, as a separate section, unchanged, the last three subdivisions of Section 21a, as amended in 1919. See publishers' note to Section 21a, above.]

Corporation so
authorized may com-
bine business of
commercial and sav-
ings banks and trust
company, etc.

Section 22. Any corporation authorized by its articles of incorporation so to do, may combine the business of a commercial bank and savings bank and trust company, or any one or more or all of them; provided, that no corporation authorized to transact a trust business and which is also organized to engage in the business of title insurance, shall engage in or combine the business of a commercial bank or savings bank.

Section 23. When a bank desires to do a departmental business, it shall first obtain the consent of the superintendent of banks, and in its application therefor, file a statement making a segregation of its capital and surplus for each department. Such capital and surplus, when so apportioned and approved by the superintendent of banks, shall be considered and treated as the separate capital and surplus of such department as if each department was a separate bank. Thereafter a bank may, from time to time, with the previous consent and approval of the superintendent of banks and subject to the provisions of section nineteen of this act, change any segregation and apportionment of capital and surplus previously made and make a new segregation and apportionment of its capital and surplus. Every bank hereafter organized doing a departmental business shall have paid up, in cash, capital stock as follows:

Prerequisites to
doing departmental
businesss.

Apportionment and
segregation of capi-
tal and surplus of
such banks.

Paid-up capital stock
requirements.

(a) In any locality in which the population does not exceed five thousand persons, not less than twenty-five thousand dollars if it transacts both a commercial and savings business, or not less than one hundred twenty-five thousand dollars if it transacts both a commercial and trust business, or not less than one hundred twenty-five thousand dollars if it transacts both a savings and trust business and not less than one hundred twenty-five thousand dollars if it transacts a commercial, savings and trust business.

Where population not
over 5,000.

(b) In any city in which the population is more than five thousand persons, but does not exceed twenty-five thousand persons, not less than fifty thousand dollars if it transacts both a commercial and savings business, or not less than one hundred fifty thousand dollars if it transacts both a commercial and trust business, or not less than one hundred fifty thousand dollars if it transacts both a savings and trust business, and not less than one hundred fifty thousand dollars if it transacts a commercial, savings and trust business.

Where population
5,000 to 25,000.

Where population
25,000 to 100,000.

(c) In any city in which the population is more than twenty-five thousand persons but does not exceed one hundred thousand persons, not less than one hundred thousand dollars, if it transacts both a commercial and savings business, or not less than two hundred thousand dollars if it transacts both a commercial and trust business, or not less than two hundred thousand dollars if it transacts both a savings and trust business, and not less than two hundred thousand dollars if it transacts a commercial, savings and trust business.

Where population
100,000 to 200,000

(d) In any city in which the population is more than one hundred thousand persons but does not exceed two hundred thousand persons, not less than two hundred thousand dollars, if it transacts both a commercial and savings business, or not less than four hundred thousand dollars if it transacts both a commercial and trust business, or not less than four hundred thousand dollars if it transacts both a savings and trust business, and not less than four hundred thousand dollars if it transacts a commercial, savings and trust business.

Where population
exceeds 200,000

(e) In any city in which the population exceeds two hundred thousand persons, not less than three hundred thousand dollars if it transacts both a commercial and savings business, or not less than five hundred thousand dollars if it transacts both a commercial and trust business, or not less than five hundred thousand dollars if it transacts both a savings and trust business, and not less than five hundred thousand dollars if it transacts a commercial, savings and trust business.

Foregoing classifica-
tion not applicable
to existing bank, or
bank included by
annexation in larger
city.

The foregoing classification shall not apply to any bank already in existence which has received from the superintendent of banks a certificate to do a banking business; nor to any bank the location of which shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to

establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception. The capital stock referred to herein shall be increased from time to time and to the same extent as provided for in section nineteen of this act.

Nothing herein contained shall prevent the superintendent of banks in the exercise of his discretion from granting his license to any bank hereafter organized in a locality which has been included by annexation or consolidation within the limits of a city requiring a larger capitalization with a capital stock paid up in cash equal to that which would have been required for said locality if it had not been included by annexation or consolidation within the limits of a city requiring a larger capitalization; provided, that no bank so licensed shall be permitted to establish any branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township which has been included by annexation or consolidation within the limits of a city requiring a larger capitalization until it shall have the capital required of banks in such city requiring said larger capitalization.

For the purposes of this act, the population shown and determined by the last preceding federal census, or any subsequent census compiled and certified under any law of this state, shall be deemed to be the population of any city in which any such bank is to be organized. If the principal place of business of any bank so organized is located outside of the corporate limits of any city, then

Supt. may grant license to bank hereafter organized in locality included by annexation, etc., as specified.

Restrictions upon right to establish branch office.

Population, for purposes of Act—how determined.

the population of that portion of the judicial township in which said bank is to have its principal place of business, which is not included within the boundaries of any municipal corporation, as such population is shown and determined by such federal or subsequent official census, shall be the basis for classification under the provisions of this act.

[Publishers' note, re Section 23, as amended 1921:

This amendment consists in the insertion of a paragraph preceding the last paragraph, providing that the superintendent, in his discretion, may grant a license to a bank hereafter organized in a locality which has been included by annexation or consolidation, within the limits of a city requiring a larger capitalization, with a capital stock equal to that which would have been required if the locality had not been annexed or consolidated; but no such bank shall have a right to establish a branch office or to remove its place of business from the original limits of the city or township which has been included by annexation or consolidation, until it shall have the capital required of banks in the city requiring a larger capitalization.]

Bank before commencing business or opening new department shall obtain certificate of Supt., etc.

Section 24. Every bank, before it commences to do business or before it opens a new department and commences to transact business in or under such new department, shall obtain the certificate of the superintendent of banks for the opening of each of the departments specified. Each certificate herein provided for shall be given when the superintendent shall, by the examination required by this act, have satisfied himself that the proper amount of cash has been paid in as capital and the provisions of this act complied with. The applicant shall pay for the certificate for each department a fee of fifty dollars.

Supt. to adopt official seal.

Section 24a. The superintendent of banks shall adopt an official seal. Every paper executed by him as such superintendent of banks in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the same effect as a deed regularly acknowledged.

Effect as evidence of papers executed by Supt.

Fees chargeable by Supt. for copies, etc.

Whenever it is proper to furnish a copy of any paper filed in the state banking department and to certify such paper, except where such copy or certification is made for the benefit of a corporation to which this act is applicable,

the superintendent of banks may charge ten cents per folio for each such copy, and for affixing his official seal on such copy and certifying the same, one dollar.

[Publishers' note, re Section 24a, new, enacted 1921:

This section provides that the superintendent shall adopt an official seal, and the papers executed by him in pursuance of authority conferred by law and sealed with the seal of his office, shall be received in evidence and may be recorded as a deed regularly acknowledged.

The superintendent is authorized to make a charge of 10 cents a folio for copies of any paper filed in the State Banking Department, and a fee of \$1.00 for certifying the same, except where the copy or certification is made for the benefit of a corporation to which this Act is applicable.]

Section 25. Every bank shall maintain for each department total reserves equal in amount to that required by this act for the respective business conducted, and shall keep separate and distinct the total reserves of any department from that of any other department; and all deposits made with other banks, whether temporary or otherwise, shall be assets of the respective departments by which they were made, and shall be so carried on the books of such other banks, and shall be repaid only upon the order of the department to whose credit they stand. No department shall receive deposits from any other department of the same corporation; except that a trust department, in proper cases, may make deposits of trust or any other funds under its control with the savings department or the commercial department, of the same corporation; provided, however, that any bank having departments shall have the right to sell and transfer any bonds, securities or loans from one department to another upon receipt of the actual value thereof, if such bonds, securities or loans are, under the provisions of this act, a legal investment for the department purchasing the same.

Bank to maintain separate, specified total reserves.

Deposits by department with other banks—how treated.

Bonds, etc., may be sold and transferred from one department to another.

[Publishers' note, re Section 25, as amended 1921:

This section previously authorized a trust department to make deposit of trust or other funds with the savings department, and, upon authorization of a proper court, with the commercial department. The amendment permits the trust department to make deposits with the commercial department without authorization of court.]

Section 26. Every bank having different departments shall keep separate books of account for each department of its business, and shall be governed as to all deposits, reserves, investments and transactions relating to

Each department to keep separate books and be governed by provisions of Act.

each department by the provisions of this act specifically provided for the respective kind of business.

It shall keep all investments relating to the savings department entirely separate and apart from the investments of its other department or departments.

Every bank shall conduct the business of all its departments in one building, or in adjoining buildings; provided, that any departmental bank, having a trust department, may conduct, with the previous written consent of the superintendent of banks, the business of its trust department in a building separate from its principal place of business in the same city in which its principal place of business is located.

Trust department
may be conducted
in separate building.

Mingling of cash,
securities, etc.,
forbidden.

Every bank shall keep entirely separate and apart in each department the cash, securities and property belonging to such department, and shall not mingle the cash, securities and property of one department with that of another.

[Publishers' note, re Section 26, as amended 1921:

This amendment permits the trust department of a departmental bank, with the previous written consent of the superintendent, to be conducted in a separate building in the same city, instead of in one building or in adjoining buildings, as previously provided.]

Moneys and assets
of each department
held for repayment
of its depositors,
etc.

Section 27. All money and assets belonging to each department, whether on hand or with other banks, and the investments made, shall be held solely for the repayment of the depositors and other claimants of each such department, as herein provided, until all depositors and other claimants of each such department shall have been paid, and the overplus then remaining shall be applied to any other liabilities of such bank.

Every bank must on
signs, advertising,
etc., specify its
business—"savings,"
"trust" or "commer-
cial."

Branch office ad-
vertising requirements.

Section 28. Every bank in this state must, on its principal place of business and on all communications to depositors, and on each of its branch offices, use the word "savings" if it conducts a savings business, and the word "trust" if it conducts a trust business, and the word "commercial" if it conducts a commercial business. Every bank which maintains a branch office must on all window signs and in advertising, and on letterheads and

other stationery on which the business of said branch office is transacted, use in letters and type, equal in prominence to that used in its corporate name, the word "branch" and the name of the place where its principal business is located; provided, that any such bank may on all window signs and in advertising, and on letter heads and other stationery of such branch offices as are located in the city where the principal place of business of such bank is located, use in letters and type, equal in prominence to that used in its corporate name, the word "branch" or the word "office," and the designation by street and number of the place where its principal business is located.

[Publishers' note, re Section 28, as amended 1921:

This section, previous to its amendment as above, provided that the words "savings," "trust" and "commercial," if the respective businesses are transacted, must appear on all the bank's window signs, and in advertising and on letterheads and other stationery on which its business is transacted.

The amendment provides that these words must be carried on the bank's principal place of business, and on all communications to depositors, and on each of its branch offices.

The amendment adds an additional paragraph providing that the word "office," with the designation by street and number of the principal place of business, may be carried on all window signs and in advertising and on letterheads and other stationery of such branch offices as are located in the city where the principal place of business of the bank is located.]

Section 29. Every corporation heretofore created under the laws of this state, doing a banking business therein, and which has no capital stock, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner as corporations formed under the provisions of Part IV, Title I, Chapter I, Article I, of the Civil Code, relating to the formation of corporations; provided, that no such corporation shall use or convert any moneys or funds theretofore belonging to it, or under its control, into capital stock; but such funds or moneys must be held and managed only for the purposes and in the manner for which they were created. Before such change is made, a majority of the members of such corporation present at a meeting called for the purpose of considering the proposition whether it is best to have a capital stock, its amount, and the number of shares into which it shall be divided, must vote in favor of having

Bank without capital stock may convert into stock company.

Prerequisites to such conversion.

a capital stock, fix the amount thereof, and the number of shares into which it shall be divided. Notice of the time and place of holding such meeting, and its object, must be given by the president of such corporation by mailing notice of such meeting to each member of such corporation at his last known post-office address at least ten days prior to the day fixed for such meeting, and by publication in some newspaper printed and published in the county, or city and county, in which the principal place of business of the corporation is situated, at least once a week for three successive weeks prior to the holding of the meeting. A copy of the proceedings of this meeting, giving the number of persons present, the votes taken, the notice calling the meeting, the proof of its publication, the amount of capital actually subscribed, and by whom, all duly certified by the president and secretary of the corporation, must be filed in the office of the secretary of state and clerk of the county where the articles of incorporation are filed. Thereafter such corporation is possessed of all the rights and powers, and is subject to all the obligations, restrictions, and limitations, as if it had been originally created with a capital stock.

Certified copy of
proceedings, etc.,
to be filed with Sec-
retary of State and
county clerk.

Effect of proceed-
ings.

Safe deposit de-
partment.

Business of bank
or of department
may be sold to
other bank.

Section 30. Any bank may conduct a safe deposit department, but shall not invest more than one-tenth of its capital and surplus in such safe deposit department.

Section 31. Any bank may sell the whole of its business or the whole of the business of any of its departments to any other bank which may purchase such business after obtaining the consent of the stockholders of the selling and of the purchasing banks holding of record at least two-thirds of the issued capital stock of each of such corporations; such consent to be expressed either in writing executed and acknowledged by such stockholders and attached to the instrument of sale, or to a copy thereof, or by vote at a stockholders' meeting of

each of such banks called for that purpose. The selling and purchasing banks must for such purposes enter into an agreement of sale and purchase, which agreement shall contain all the terms and conditions connected with such sale and purchase. Such agreement shall contain proper provision for the payment of liabilities of the selling bank or of the department sold, and the assumption by the purchasing bank of all fiduciary and trust obligations of the selling bank or department sold, and in these particulars shall be subject to the approval of the superintendent of banks; and shall not be valid until such approval is obtained. Such agreement may contain provisions for the transfer of all deposits to the purchasing bank, subject, however, to the right of every depositor of the selling bank to withdraw his deposit in full on demand after such transfer, irrespective of the terms under which it was deposited with the selling bank; and such agreement may also contain provisions for the transfer of all court and private trusts to the purchasing bank, subject, however, to the right of trustors and beneficiaries, after such transfer, to nominate another and succeeding trustee of the trusts so transferred. The rights of creditors of the selling bank shall not in any manner be impaired by any such sale, nor shall any liability or obligation for the payment of any money due or to become due, or any claim or demand, in any manner, or for any cause existing against such selling bank or against any stockholder thereof, be in any manner released or impaired, and all the rights, obligations and relations of all the parties, creditors, depositors, trustors and beneficiaries of trusts shall remain unimpaired by the sale, but such bank to which the other shall sell all its business or all the business of any of its departments, shall succeed to all such relations, obligations, trusts and liabilities and be held liable to pay and discharge all such debts and liabilities and to perform all such trusts of the selling bank in the same manner as if such bank to which the other had

Banks must enter into agreement of sale containing specified provisions.

Purchasing bank succeeds to rights and obligations of selling bank.

Stockholders remain liable.

sold had itself incurred the obligation or liability or assumed the relation of trust, and the stockholders of the respective corporations so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them as such at or before such sale. Immediately after the execution of such agreement of sale and purchase notice thereof shall be published for at least four successive weeks in a newspaper in each of the counties of the state in which either of such banks shall have its principal place of business; provided, however, that no action can be brought against such selling bank or any of its stockholders on account of any deposits, obligations, trusts or liabilities so transferred after the expiration of one year from the last day of publication ^{Notice of sale to be published.} ^{Limitation of actions.} herein required; and provided, further, that such selling bank shall maintain for a period of one year after the last day of publication herein required such an amount, if any, of capital or capital and surplus as the superintendent of banks, in the exercise of his discretion, may deem necessary.

An affidavit showing such publication shall be filed in the office of the superintendent of banks within ten days after the last publication thereof. The affairs of such selling bank, or selling department of a bank, shall remain subject to the provisions of this act.

<sup>Effect of approval by
Supt., of sale.</sup>

Upon the approval by the superintendent of banks of an agreement of sale and purchase and the transfer of the business of a trust department or of a bank having a trust department the purchasing bank shall, ipso facto and by operation of law and without further transfer, substitution, act or deed, and in all courts and places, be deemed and held to have succeeded and shall become subrogated and shall succeed to all rights, obligations, properties, assets, investments, deposits, demands, contracts, agreements, court and private trusts and other relations to any person, creditor, depositor, trustor, principal or beneficiary of any

court or private trust, obligations and liabilities of every nature, and shall execute and perform all such court and private trusts in the same manner as though it had itself originally assumed the relation or trust or incurred the obligation or liability.

[Publishers' note, re Section 31, as amended 1921:

This amendment adds, at the close of the next to the last paragraph, the following sentence:

"And provided, further, that such selling bank shall maintain for a period of one year after the last day of publication herein required such an amount, if any, of capital or capital and surplus as the superintendent of banks, in the exercise of his discretion, may deem necessary."]

Section 31a. Any bank incorporated under the laws of this state may consolidate with one or more banks incorporated under the laws of this state, its capital stock, properties, trusts, claims, demands, contracts, agreements, obligations, debts, liabilities and assets of every kind and description, upon such terms and in such manner as may be agreed upon by their respective boards of directors, a copy of which agreement must be filed in the office of the superintendent of banks; provided, that such agreement shall be subject to the approval of the superintendent of banks and shall not be valid until such approval be obtained; provided, further, that no such consolidation shall take effect until such agreement shall have been ratified and confirmed in writing by the stockholders of the respective banks holding of record at least two-thirds of the issued capital stock of their respective banks, or such agreement may be submitted to the stockholders of each of such corporations at a meeting thereof to be called upon notice specifying the time, place and object thereof, addressed to each stockholder at his last known post-office address and deposited in the post-office, postage prepaid, at least two weeks prior to the date fixed for said meeting, and published for at least two successive weeks, prior to the date of said meeting, in a newspaper in each of the counties of the state in which any of such banks shall have its principal place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders

state banks may consolidate, upon approval of Supt. and ratification of stockholders as specified.

separately by the vote or ballot of the stockholders owning at least two-thirds of the stock of each such bank, the same shall be the agreement of such banks. In case of such consolidation "articles of incorporation and consolidation" must be prepared, setting forth:

Contents of articles:
consolidation.

- First—The name of the new corporation;
- Second—The purpose for which it is formed;
- Third—The place where its principal business is to be transacted;
- Fourth—The term for which it is to exist, which shall not exceed fifty years;
- Fifth—The number of its directors (which shall not be less than three) and the names and residences of the persons appointed to act as such until their successors are elected and qualified;
- Sixth—The amount of its capital stock and the number of shares into which it is divided;
- Seventh—The amount of stock actually subscribed, and by whom;
- Eighth—The names of the constituent corporations.

Articles to be ex-
ecuted as specified.

Said articles of incorporation and consolidation must be signed and countersigned by the president and secretary of each constituent corporation and sealed with their corporate seals. There must be annexed thereto the approval of the superintendent of banks and memoranda of the ratification and confirmation thereof by the stockholders of each constituent corporation, which must be respectively signed and acknowledged by stockholders representing at least two-thirds of the capital stock of their respective corporations.

Articles—with whom
to be filed.

When completed as aforesaid said articles must be filed in the office of the secretary of state and a copy of the articles of incorporation and consolidation, certified by the secretary of state, must be filed in the office of the county clerk of the county in which is located the prin-

cipal place of business of the new corporation. The secretary of state must issue over the great seal of the state a certificate that the articles of incorporation and consolidation containing the required statement of facts have been filed in his office. A duplicate of the certificate hereinbefore provided for must be filed by the secretary of state in his office and copies thereof duly certified by the secretary of state shall have the same force and effect in evidence as the original.

A copy of the articles of incorporation and consolidation, certified by said secretary of state, must be filed in the office of the superintendent of banks, and also in the office of the county clerk of each county in which a principal place of business of either or any of the constituent corporations was situated at the time said corporation was incorporated. When the superintendent of banks issues the certificate of authorization provided for by section one hundred twenty-eight of this act the new or consolidated corporation shall be a body politic and corporate by the name stated in the certificate, and for the term of fifty years, unless it is, in the articles of incorporation and consolidation, otherwise stated and thereupon each constituent corporation named in the articles of incorporation and consolidation must be deemed and held to have become extinct in all courts and places, and said new corporation must be deemed and held in all courts and places to have succeeded to all their several capital stocks, properties, trusts, claims, demands, contracts, agreements, assets, choses and rights in action of every kind and description, both at law and in equity, and to be entitled to possess, enjoy, and enforce the same and every thereof, as fully and completely as either and every of its constituents might have done had no consolidation taken place. Said consolidated or new corporation must also, in all courts and places, be deemed and held to have become subrogated to its several constituents and each thereof, in respect to all their

Effect of Supt. issuing certificate.

contracts and agreements with other parties, and all their debts, obligations, and liabilities, of every kind and nature, to any persons, corporations, or bodies politic, whomsoever, or whatsoever, and said new corporation must sue and be sued in its own name in any and every case in which any or either of its constituents might have sued or might have been sued at law or in equity had no such consolidation been made. Nothing in this section contained shall be construed to impair the obligation of any contract to which any of such constituents were parties at the date of such consolidation. All such contracts may be enforced by action or suit, as the case may be, against the consolidated corporation, and satisfaction obtained out of the property which, at the date of the consolidation, belonged to the constituent which was a party to the contract in action or suit, as well as out of any other property belonging to the consolidated corporation, and the stockholders of each constituent corporation so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them at or before such consolidation to the same extent as if the same had not been made. The right of said new corporation to increase or decrease its capital stock, to change the number of its directors, to amend its articles of incorporation, to change its principal place of business, or its name, or to effect any other organic change shall be governed by the general corporation laws of this state and by the bank act, and the procedure to effect any such change shall be that defined by the general corporation laws and the bank act.

Right of new corporation to effect organic changes.

Supt. to transmit to Secy. of State duplicate of certificate.

The superintendent of banks shall transmit to the secretary of state a duplicate of the certificate of authorization hereinbefore referred to and the secretary of state shall file the same in his office. The superintendent of

banks shall also file a duplicate of such certificate in his own office.

[Publishers note, re Section 31a, as amended 1921:

The only change from the old section is in the first part of paragraph "Eighth," as to the order of filing, in the public offices, of articles of incorporation and consolidation.]

Section 31b. (1) Any two or more banks, respectively empowered by their articles of incorporation, and authorized by the provisions of the bank act to do the business of a commercial bank and savings bank and trust company, or any one or more or all of them, are hereby authorized to merge one or more of such banks into another of them, as hereinafter provided.

Merger of two or more banks authorized.

(2) The respective boards of directors of such banks may by a majority vote of all of the members of each board, at a meeting duly called and held, make or authorize to be made between such banks a written agreement in duplicate for the merger of such banks. Such agreement shall specify each bank to be merged and the bank which is to receive into itself the merging bank or banks, and it shall prescribe the terms and conditions of the merger and the mode of carrying it into effect. Such agreement may provide for such and any matters to effect and accomplish such merger, not inconsistent with the provisions of the bank act or the other laws of this state.

Corporate proceedings to be taken by merging banks.

Such agreement and sworn copies of the proceedings of the meetings of the respective boards of directors at which the making of such agreement was authorized, shall be submitted in duplicate to the superintendent of banks for his approval and shall not be valid until such approval is obtained.

Merger agreement and copies of corporate proceedings to be filed with Supt.

Said merger shall not take effect unless and until such merger agreement shall have been ratified and confirmed in writing by the stockholders of the respective banks holding of record at least two-thirds of the issued capital stock of their respective banks, or such merger agreement

Merger not effective until ratified and confirmed by stockholders, as specified.

MERGER OF TWO OR MORE BANKS may be submitted to the stockholders of each of such

—Continued. banks at either a regular or special meeting thereof, to be duly called in the manner provided in the by-laws of such respective banks, or if no manner for calling such meeting is therein provided, then in the manner prescribed by law; and if such agreement shall be approved at each of such meetings by the affirmative vote of stockholders owning at least two-thirds in amount of all of the issued and outstanding shares of stock of their respective banks, it shall thereupon become binding upon such banks.

Duplicates of merger documents to be filed with Supt. and Clerk of County, after merger agreement becomes binding.

(3) After such merger agreement shall have become binding upon the respective banks who are parties thereto, as herein provided, one of the duplicates thereof with a copy of the superintendent of banks' written approval and a sworn copy of the proceedings of the meetings at which such agreement was finally approved, made by the secretaries thereof respectively, shall be filed in the office of the superintendent of banks, and the other duplicate of such agreement shall be filed in the office of the clerk of the county in which is located the principal place of business of the bank into which the other corporation or corporations are to be merged.

Merger to become effective upon filing of papers as specified.

(4) Upon filing the duplicates of such merger agreement, together with copies of its approval by the superintendent of banks, the merger agreement shall take effect according to all of its terms and the merger shall thereupon take place as provided in the agreement without further or other act, transfer or substitution. Upon the taking effect of the merger agreement, the merged corporation or corporations shall surrender their licenses to do a banking business for cancellation by the superintendent of banks.

Merged banks then to surrender licenses.

Effect of merger upon rights, privileges and relations of merged bank.

(5) Upon the merger of any corporation or corporations into another, as provided in this section:

(a) Its corporate existence shall be merged into that of such other corporation, and all and singular its rights,

privileges and franchises, and its right, title and interest in and to all property, real, personal or mixed, and chooses in action, and every right, privilege, interest or asset of conceivable value or benefit then existing or which would thereafter inure to it under an unmerged existence shall be deemed fully and finally, and without any right of reversion, interruption, impairment or limitation of title, right or privilege, transferred to and vested in the corporation into which it shall have been merged, without further act or deed, and such last mentioned corporation shall have, hold, possess, enjoy and enforce the same in its own right, as fully as the same was possessed, enjoyed and held by the merged corporation from which it was, by operation of the provisions of this section, transferred.

(b) Its rights, obligations, properties, assets, investments, deposits, demands, contracts, agreements, court and private trusts, as defined in the bank act, and other relations to any person, creditor, depositor, trustee, principal or beneficiary of any court or private trust, shall remain unimpaired and without change or alteration in any respect, and the corporation into which it shall have been merged shall, by such merger, ipso facto and by operation of law, without further transfer, substitution, act or deed, and in all courts and places be deemed and held to have, and shall become subrogated and shall succeed, to all such rights, obligations, properties, assets, investments, deposits, demands, contracts, agreements, court and private trusts, and other relations to any person, creditor, depositor, trustee, principal or beneficiary of any court or private trust, obligations and liabilities, of every kind or nature, and shall execute and perform all such court and private trusts in the same manner as though it had itself originally assumed the relation or trust or incurred the obligation or liability; the corporation into which it shall have been merged shall succeed to and be entitled to take and execute and receive the appointment to all executor-

EFFECT OF MERGER
UPON RIGHTS,
RELATIONS, ETC.,
OF MERGED
BANKS—Continued.

**EFFECT OF MERGER
UPON RIGHTS
RELATIONS, ETC.,
OF MERGED
BANKS—Continued.** ships, trusteeships, guardianships, and other fiduciary capacities in which the merged corporation may be then or thereafter named in wills theretofore or thereafter probated, or in any other instruments; and the liabilities and obligations of such merged corporation to the depositors, beneficiaries, principals and other creditors existing for any cause whatever shall not be impaired by such merger; nor shall any obligation or liability of any stockholder in any corporation which is a party to such merger be affected by any such merger, but such obligations and liabilities shall continue as fully and to the same extent as existed before such merger.

(c) Any action pending or other judicial proceedings to which any corporation that shall be so merged is a party, shall not be deemed to have abated or to have discontinued by reason of the merger, but may be prosecuted to final judgment, order or other decree in the name of the merged corporation, in the same manner as if the merger had not been made, or such merging corporation may be substituted as a party to such action or proceeding, and any judgment, order or decree may be rendered for or against it that might have been rendered for or against such merged corporation, if the merger had not occurred.

*Certificates of stock
in merged banks may
be required in ex-
change for certificates
of stock of merging
bank.*

(6) The corporation into which the other corporation or corporations shall have been merged, as herein provided, may require the return of the original certificate or certificates held by each stockholder in such other corporation or corporations, and may issue in lieu thereof new certificates for such number of its own shares as such stockholder may be entitled to receive under the merger agreement.

(7) In the event that, either

*Effect of failure of
stockholder of
merged bank to return
certificate.* (a) Any stockholder of any such merged corporation shall fail or refuse, within ninety days after such merger shall take effect, to return the original certificate or certi-

ificates held by such stockholder in such merging corporation or corporations and to accept in lieu thereof a new certificate or certificates for such number of the shares of the merging corporation as such stockholder may be entitled to receive under the merger agreement; or,

(b) Any stockholder or shareholder shall vote against or not in favor of such agreement of merger, at the meeting where such merger is approved, or shall dissent in writing and file such written dissent with the secretary of the merged corporation within thirty days after such merger agreement shall have been ratified in writing by the holders of record of not less than two-thirds of the issued and outstanding stock of such corporation or corporations, as hereinbefore provided, and shall, within thirty days after such stockholders' meeting or after the date of such stockholders' ratification, as the case may be, make written demand for payment for his shares of stock;

In either of the events hereinabove mentioned, the merging corporation shall buy, and such stockholder shall sell to it, all such stock held by such stockholder, and, if such stockholder be a borrower from said corporation, said merging corporation shall demand liquidation of his indebtedness and the cancellation of his shares. If such stockholder and the board of directors of such merging corporation cannot agree upon the amount to be paid for such shares of stock or the amount of said indebtedness, if any, either said merging corporation or such stockholder, after said merger takes effect, may, at any time within sixty days thereafter, apply to the superior court in the county wherein is situated the principal place of business of the corporation into which the other or others are merged, for the appointment of three disinterested persons to appraise the value of shares of stock held by such dissenting stockholder. The court shall thereupon, after ten days' notice to said merging corporation and to such stockholder, appoint such appraisers, and designate the time and place of their meeting, with such directions

EFFECT OF FAILURE OF STOCK-HOLDER OF MERGED BANK TO RETURN CERTIFICATE—
Continued.

Dissent of Stockholder against merger—how and when expressed.

Court procedure, in event such stockholder and the directors of merging corporation cannot agree upon amount payable for stock.

in regard to their proceedings as it shall deem proper, and shall also direct the time and manner in which payment shall be made for the value of the shares of stock of such stockholder and the cancellation of his shares of stock. The court may fill any vacancies in such board of appraisers. The appraisers shall meet at the time and place designated, and after being duly sworn honestly and faithfully to discharge their duties, they shall make and certify a written estimate of the value of such shares of stock, and the amount of such indebtedness, if any, and shall deliver one copy to the merging corporation and the other to such stockholder. The charges and expenses of the appraisers shall be paid by such corporation.

*Cancellation of stock
of such stockholder
and effect of same
upon his corporate
rights.*

When the corporation shall have paid the appraised value of such stock, or if such stockholder be a borrower as aforesaid, when he shall have paid the amount of his indebtedness as fixed by such appraisal, such stock shall be cancelled and such stockholder shall cease to be a member of said corporation or to have any interest in such stock or any corporate property, and such stock may be sold and disposed of by the corporation for its own benefit; and if such stockholder or shareholder be a borrower as aforesaid, proper instruments of acquittance shall be duly executed and delivered to him by the corporation and thereupon he shall be discharged from all further liability to the corporation.

[Publishers' note, re Section 31b, 1921:

This section covers the merger of two banks, whether departmental or not. There are already in the Bank Act provisions covering the purchase of one bank by another and the consolidation of two or more banks. This section is intended to supplement provisions already in the Act (covering the purchase of one bank by another and the consolidation of two or more banks), and sets out in detail the steps to be followed in the merger proceedings, and the effect thereof. The purpose of this section is to permit one or more banks to merge into another bank and enable the merging bank—that is, the bank receiving the merged bank or banks—to take over all assets, liabilities, rights and relations of every sort, of the merged bank or banks, including relations of trust, by operation of law, upon the completion of the steps set forth in the amendment.]

*Bank not to mingle
trust funds with
other assets.*

Section 32. Any bank receiving trust funds in accordance with the provisions of this act relating to trust companies must not mingle such trust funds with the other assets of the corporation, except as otherwise provided

in section twenty-five of this act, and such funds shall not be carried or counted as any part of the total reserves provided for in this act. The officers of any bank who knowingly violate or consent to the violation of this provision shall be guilty of a felony.

Violation of provision, felony.

(Section 33. Repealed 1913.)

Section 34. No bank shall purchase or invest its capital or surplus or money of its depositors, or any part of either, in shares of its own capital stock; nor loan its capital or surplus or money of its depositors, or any part of either, on shares of its own capital stock, unless such purchase or loan shall be necessary to prevent loss to such bank on debts previously contracted in good faith. Every person or corporation violating any provision of this section shall forfeit to the people of the state twice the nominal amount of such stock.

No bank to purchase, invest or lend upon its capital stock, unless to prevent loss on debt.

Section 35. No bank shall purchase any contract arising from the sale of real estate or any note or bond in which contract, or note, or bond any director, officer, employee, or controlling stockholder of such bank is personally or financially interested, directly or indirectly, for his own account, for himself, or as the partner or agent of others, without the previous consent in writing of the superintendent of banks.

Limitations upon purchase of realty note or bond by interested officers, etc.

Section 36. No commercial bank receiving deposits of money shall purchase or agree to purchase any bond issue in excess of five per centum of its assets, except bonds of the United States, of the State of California, of the counties, cities and counties, cities or school districts of this state, or bonds of any irrigation district such as are legal for investment by savings banks.

Commercial bank receiving deposits not to purchase bond issue in excess of 5% of assets, except governmental bonds.

Section 37. No bank shall, except as otherwise provided in this act, purchase or invest its capital or surplus or money of its depositors, or any part of either, in the capital stock of any corporation unless the purchase or

Restriction on purchasing or investing in capital stock of any corporation.

acquisition of such capital stock shall be necessary to prevent loss to the bank on an obligation owned or on a debt previously contracted in good faith. Any capital stock so purchased or acquired shall be sold by such bank within six months thereafter if it can be sold for the amount of the claim of such bank against it; and all capital stock thus purchased or acquired must be sold for the best price obtainable by said bank within three years after such purchase or acquisition unless the superintendent of banks shall extend the time of its sale for a period not to exceed two years.

Capital stock so purchased to be sold.

Any bank, with the previous written consent of the superintendent of banks, may purchase or otherwise acquire and hold the whole or any part of the capital stock of not more than one trust company organized and existing under the laws of this state, and doing business in the same county in which the principal place of business of such bank is located; provided, however, that not more than an amount equal to twenty-five per centum of the capital and surplus of any such bank may be at any one time invested in the capital stock of such trust company or such other corporation; and provided, further, that no such trust company shall engage in or combine the business of a commercial bank or a savings bank or a title insurance company.

Bank after consent of Supt., may acquire capital stock of one California trust company doing business in same county.

Any bank, with the previous written consent of the superintendent of banks, may purchase or otherwise acquire and hold the whole or any part of the capital stock of not more than one corporation authorized and empowered to conduct a safe deposit business, which such corporation is organized and existing under the laws of this state and doing business in the same city in which the principal place of business of such bank is located; provided, however, that not more than an amount equal to twenty-five per centum of the capital and surplus of any such

Bank, with consent of Supt., may purchase, etc., stock of one safe-deposit corporation in same city.

Any bank, with the previous written consent of the superintendent of banks, may purchase or otherwise acquire and hold, the whole or any part of the capital stock of not more than one corporation authorized and empowered to conduct a safe deposit business, which such corporation is organized and existing under the laws of this state and doing business in the same city in which the principal place of business of such bank is located; provided, however, that not more than an amount equal to ten per centum of the capital and surplus of any such

Limitation on such investment.

bank may be at any one time invested in the capital stock of such safe deposit corporation.

[Publishers' note, re Section 37, as amended 1921:

This amendment provides that a bank may purchase the capital stock of not more than one California trust company doing business in the same county, instead of in the same city, as previously provided.]

Section 38. A director, officer, agent or employee of any bank who,

First—Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in its books and accounts; or,

Director, agent, etc., of bank making or concurring in false entry or report, or in omitting to make full and true entries, etc., guilty of felony.

Second—Concurs in omitting to make any material entry thereof; or,

Third—Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which is false; or,

Fourth—Having the custody or control of its books, wilfully refuses or neglects to make any proper entry in the books of such corporation as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by the superintendent of banks, his chief deputy or any of his examiners, shall be guilty of a felony.

Section 39. Any officer, director, agent, teller, clerk or employee of any bank who either,

Bank director or employee overdrawing accounts or receiving commissions on loan guilty of felony.

First—Knowingly overdraws his account with such bank, and thereby obtains the money, notes or funds of any such bank; or

Second—Asks or receives or consents or agrees to receive any commission, emolument, gratuity or reward, or any money, property or thing of value, for his own personal benefit, or of personal advantage, for procur-

ing or endeavoring to procure for any person, firm or corporation any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange, by such bank, or for permitting any person, firm or corporation to overdraw any account with such bank, is guilty of a felony.

Contract of bank to
waive stockholder's
liability, void.

Section 40. No bank mentioned in this act shall make any contract with any of its depositors whereby the stockholders' liability provided for by the constitution of this state is in any manner waived, and if any such contract shall be so made, such contract shall be void.

No bank officer, di-
rector, employee,
etc., to purchase or
be interested in pur-
chase of bank's ob-
ligations or assets
under face value.
Exception.

Section 41. No officer, director, agent, or other employee of any bank shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of such bank's obligations or assets for a less sum than shall appear upon the face of any such obligations or assets to be the value thereof except with the previous consent of all the directors of said bank, such consent to be evidenced by a resolution adopted by said directors. A certified copy of said resolution shall immediately be transmitted to the superintendent of banks. Every person violating any provision of this section, shall for each offense forfeit to the people of the state, twice the face value of any such obligations or assets so purchased.

Section 42. No officer, director, agent or other employee of any bank, shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of the assets of said bank for a less sum than the current market value thereof. Every person violating any provision of this section, shall for each offense, forfeit to the people of the state, twice the nominal amount of any such assets so purchased.

No bank to deposit
funds in other bank
except Federal Re-
serve bank, unless
as specified.

Section 43. No bank shall deposit any of its funds in any other bank, except a federal reserve bank, unless such other bank has been nominated as a depositary for

its funds by the vote of a majority of the directors or trustees of the bank making the deposit, and such other bank has been designated by the superintendent of banks as such depositary.

The superintendent of banks may in his discretion revoke such a designation.

Section 44. No bank shall hereafter make a loan secured by the stock of another bank, if by making such loan the total stock of such other bank held by such loaning bank as collateral will exceed in the aggregate twenty-five per centum of the capital stock of such other bank; provided, that no loan upon the capital stock of any bank shall be made unless such bank has been in existence at least two years and has earned and paid a dividend upon its capital stock; and provided, further, that no bank may loan more than five per centum of its assets upon the capital stock of any corporation whatsoever as collateral security.

Limitation and restrictions upon loan secured by stock of another bank.

Section 45. Interest unpaid, although due or accrued, on debts owing to any bank, shall not be included in calculation of its profits previous to a dividend; nor shall any bank, except with the previous written consent of the superintendent of banks, enter or at any time carry on its books any of its assets at a valuation exceeding its actual cost to such bank.

Unpaid interest not deemed profits previous to dividend.

Section 46. No commercial bank shall invest or loan more than five per centum of its assets in any one bond issue, except bonds of the United States, of the State of California, of the counties, cities and counties, cities or school districts of this state, or bonds of any irrigation district such as are legal for investment by savings banks.

No valuation of assets above cost without consent of Supt.

Section 47. No commercial bank shall, except for the purpose of facilitating the sale of property owned by the bank, make any loan on the security of real estate, unless it is a first lien and is either

No bank to loan or invest more than 5% of assets in any one bond issue, except governmental bonds, as specified.

No commercial bank, except to facilitate sale of property owned to make loan on real estate, unless first lien and for specified period and per centum of value.

- (1) Made for a period of time not exceeding six months and upon security worth at least fifteen per centum more than the amount loaned; or
- (2) Made for a period of time exceeding six months and not exceeding ten years and does not exceed sixty per centum of the market value of the real estate taken as security.

Subsequent mortgages and deeds of trust.

No commercial bank shall loan in the aggregate more than thirty-five per centum of its assets on real estate loans of the character specified in subdivision two of this section. These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust thereon when it already holds a first mortgage or deed of trust on such real estate, nor from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when, in the judgment of the directors of such bank, such subsequent liens are necessary further to secure the payment of any debts and save such bank from loss.

National bank other than Federal Reserve bank receiving State bank deposits, must, at request of Supt., submit to examination.

Section 48. Any national bank, in this state, other than a federal reserve bank, receiving the deposits of any bank organized and conducting business under this act, must, at the request of the superintendent of banks, submit to an examination by him, or his duly appointed examiners, should the superintendent of banks in his discretion deem it necessary or desirable that such examination be made; and the expense of such examination shall be paid by such depositary bank; and if any such bank shall refuse to permit such examination to be made by, or under the direction of, the superintendent of banks, then the superintendent of banks shall notify in writing every bank depositing its funds with such bank, to with-

draw its deposits therefrom, and all such banks shall comply with such order.

Section 48a. Any national banking association, whose principal place of business is in this state, is hereby authorized to act in fiduciary capacities in all respects as provided by the acts of congress, approved December 23, 1913, and amendments thereof, commonly known as the federal reserve act, and all acts herein provided to be performed by the state treasurer, the superintendent of banks or other public officials for or in respect of trust companies, shall be performed for such national banking association equally with trust companies. Every such national banking association which shall be authorized to exercise said fiduciary powers, and which has qualified by making the deposit of securities required by the law of this state, may act, or may be appointed by any court to act in any such capacity in like manner as an individual. Every such association shall be permitted to use the word "trust" in its corporate name and to advertise its authority to act in fiduciary capacities, anything to the contrary in this act notwithstanding.

Natl. Banking Ass'n with principal place of business in State, authorized to act in fiduciary capacities, as provided by Fed. Reserve Act.

Every such Ass'n, authorized in Sec., may act in fiduciary capacities.

Such association may use "Trust" in corporate name.

The superintendent of banks shall inspect and examine the books, records and assets of the trust department of each national banking association which conducts a trust department in this state to the same extent that the said superintendent of banks exercises visitorial supervision over trust companies organized and existing under the laws of this state.

Supt. shall examine books, assets, etc., of trust dept. of each such Ass'n.

The charge by the state banking department for all services rendered to any national banking association by the superintendent of banks, in accordance with the provisions of this section, shall be paid by the national banking association requiring such services. Such charge for services shall be determined by the superintendent of banks, and shall be no higher than the charge for a

Charges and cost for services rendered by State Banking Dept.

similar service to trust companies organized under the laws of this state.

The cost of all regular and ordinary service shall be calculated upon the amount of the securities deposited by each such national bank with the treasurer of the state for the due execution and faithful performance of its court and private trusts at the same ratio as is applied to the capital and surplus of trust companies organized under the laws of this state in determining the cost to them for such services.

The cost of all special and extraordinary services shall be the same as that provided for in section one hundred twenty-four of this act.

[Publishers' note, re Section 48a, as amended 1921:

The amendment is at the end of the first paragraph of the old section, consisting of a provision added which permits a national banking association resident in this State and which has assumed trust functions, to use the word "trust" in its corporate name.]

Holding out as savings bank by commercial bank, etc., unlawful.

Section 49. It shall not be lawful for any commercial bank, individual, trust company, association, firm, stock company, copartnership or corporation, to advertise or put forth a sign as a savings bank, or either directly or indirectly or in any way to solicit or receive deposits or to transact business in the way or manner of a savings bank, or to advertise that he or it is receiving or accepting savings, or in any way which might lead the public to believe that such deposits are received or invested under the same conditions or in the same manner as deposits in savings banks, except in the case of savings banks or banks having savings departments, subject to the provisions of this act. Any commercial bank, individual, trust company, association, firm, stock company, copartnership or corporation, violating any provision of this section shall forfeit to this state one hundred dollars a day for every day during which such violation continues.

Every bank or branch to post last certificate from Supt.

Section 50. Every bank shall post in a conspicuous place in its banking room or branch office the last cer-

tificate obtained from the superintendent of banks under the provisions of either section nine or one hundred twenty-seven of this act.

Section 51. Any court having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depositary or trustee, upon the application of such executor, administrator, guardian, assignee, receiver, depositary or trustee, or upon the application of any person having an interest in the estate administered upon by such officer or trustee, after notice to other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer or trustee to deposit any money then in his hands as such officer or trustee or which may thereafter come into his hands, and until the further order of the court, in any bank organized under the laws of the State of California; and upon such deposit being made, the officer or trustee so depositing the same shall thereafter and while such moneys remain on deposit in such bank, be relieved and discharged from all liability and responsibility therefor, and the bond required of such officer or trustee given upon his appointment shall be thereupon by said court reduced to such an amount as the court may deem reasonable; such deposit shall be repaid only upon the orders of said court, and shall be a preferred claim against such bank and be paid in full before any other depositor of such bank shall have been paid.

Court may, under conditions specified, authorize executor, administrator, guardian, receiver, trustee, etc., to deposit money in State bank.

Such deposit payable only on court order.

Section 52. Whenever a check drawn on any bank is certified by any officer or employee of such bank, the amount thereof shall be immediately charged against the account of the person, firm or corporation drawing the same.

Certified check must be immediately charged.

It shall be unlawful for any officer or employee of any bank to certify any check drawn upon such bank unless the person, firm or corporation drawing the check has on deposit with the bank at the time such check is certi-

fied, an amount of money subject to the payment of such check, equal to the amount specified in such check.

Bank officer or employee violating Sec. guilty of felony.

Any officer or employee of any bank who shall wilfully violate the provisions of this section, or shall resort to any device, or receive any fictitious obligations, directly or indirectly, in order to evade the provisions hereof, or who shall certify checks before the amount thereof shall have been regularly entered to the credit of the drawer, shall be guilty of a felony.

Par value of capital stock \$100 and paid up value to be on certificate.

Section 53. The capital stock of any bank having a capital stock shall have a par value of one hundred dollars per share, and the paid-up value shall be endorsed upon the face of each certificate issued, which paid-up value shall be the same on all certificates issued. No bank shall have preferred stock; provided, however, that no bank whose capital stock, on January 1, 1915, failed to comply with any of the requirements of this section, shall be compelled to change its capital stock in compliance herewith.

Proviso as to non-compliance prior to Jan. 1, 1915.

Real estate acquired by bank and not necessary in its business, must be sold or exchanged, as specified.

Section 54. All real estate purchased by any bank at sales under pledges, mortgages or deeds of trust for its benefit for money loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon and all other real estate owned or held by it, which is not necessary for carrying on its business, must be sold or exchanged for other real estate by such bank within five years after title thereto shall have vested in it by purchase or otherwise; provided, however, that no exchange of such real estate for other real estate shall be made unless and until written consent thereto shall first be given by the superintendent of banks; and provided, further, that any real estate so taken in exchange may be held for such period of time as the superintendent of banks may fix but not to exceed five years. Parcels of such real estate not sold or exchanged within said time may be purchased by any person wanting the same

Parcels not sold or exchanged within said time purchasable by any person; procedure outlined.

upon the conditions and proceedings following: The intending purchaser may file a petition in the superior court in and for the county wherein said real estate or any portion thereof is situated; upon the filing of such petition a citation shall be issued out of said court directed to the bank owning such real estate requiring such bank to show cause on a day certain which shall be not earlier than ten days after the service of such citation, why commissioners should not be appointed by said court for the purpose of appraising the value of the real estate described in the petition and of selling the same at public auction under the provisions of this section. If there shall be any liens or encumbrances of record against such real estate the person or persons holding such liens or encumbrances shall likewise be cited and the court shall in its final decree distribute the proceeds of such sale, if a sale thereof shall be made, according to the equities of the parties. If it shall appear at the hearing of such petition that the real estate therein sought to be purchased is held by such bank in violation of the provisions of this section or of the constitution of this state, the court shall appoint three commissioners to appraise the value thereof and sell the same at public auction at the county seat of the county wherein said real estate or any part thereof is located. Notice of which said sale shall be given to the bank owning said real estate and to any other persons interested therein as shown by the records of such county at least ten days before the date of such sale and shall be published once a week for three successive weeks in some newspaper published in the county where such real estate or any part thereof may be located, or if no newspaper shall be published in such county then in a newspaper published in some neighboring county. Such notice shall state the time and place of such sale and shall describe the real estate to be sold with common certainty and state the value thereof as fixed by the appraisement of such commissioners and state

Court to appoint commissioners to appraise and sell real estate held by bank in violation of law.

Procedure governing sale.

that no bid less than such appraised value will be received therefor. No sale shall be made for an amount less than the appraised value of such real estate fixed by said commissioners, and in the event that no bid is received at such sale at least equal to said appraised value of said real estate no intending purchaser can institute the proceedings provided for in this section within one year thereafter. In case of any sale made under the provisions of this section and of the refusal of any bank owning such real estate or of any lienholder or encumbrancer to execute the conveyances or releases necessary or proper to vest the title of such bank, lienholder or encumbrancer in the purchaser thereof the court shall have power in such proceedings to direct said commissioners to execute such deeds, conveyances or releases upon the payment to them of the purchase price therefor. The fees of such commissioners and cost of sale shall be fixed by the court, upon making such appointment, but the entire expense thereof shall not exceed one hundred dollars. The cost of any such proceedings shall be borne by the intending purchaser if no sale shall be made, but if a sale shall be made the costs of such proceedings shall be borne by the purchaser of the property and the person who filed the petition and advanced the costs of such proceedings shall be reimbursed in case he shall not become such purchaser. All sales hereunder shall be returned to the court having jurisdiction of the matter in the same manner as in the case of sales, by commissioners, of real estate on foreclosure of mortgages. Nothing in this section contained shall be deemed to affect the power of the superintendent of banks to require the writing down of the value of real estate held by any bank, at any time, when such writing down shall be proper.

Power of Supt. to
write down bank
realty not affected
by Sec.

Receiving deposits,
etc., not creation of
debt within mean-
ing of Civil Code.

Section 55. Receiving deposits, issuing certificates of deposit, checks and bills of exchange, and the like, in the transaction of the ordinary business of a bank, must not

If no bid equals
appraised value,
proceedings not
renewable within
one year.

Fees and costs; how
limited and borne.

be construed to be the creation of debt within the meaning of the phrase "create debt" in section three hundred nine of the Civil Code, nor of indebtedness within the meaning of the phrase "the capital stock can not be diminished to an amount less than the indebtedness of the corporation" in section three hundred fifty-nine of the Civil Code, except that no bank shall reduce its capital stock to an amount less than is required by this act to be maintained by such bank, or less than any indebtedness of such bank other than such deposits.

Restriction on reduction of capital stock.

The terms "real estate," or "real property," or "personal property," when used in this act shall have the meaning defined in, and shall be construed in accordance with the provisions of Title I of Part I of division second of the Civil Code.

"Real estate,"
"real property,"
"personal property,"
—how defined.

Section 56. Any bank is hereby authorized and empowered to become a member of a federal reserve bank.

Any bank may become member of Federal Reserve bank.

Nothing in this act shall prohibit any such bank from becoming a member of a federal reserve bank, in the manner provided in the federal reserve act, nor from investing any part of its capital or surplus or reserve fund in the capital stock of such federal reserve bank, in accordance with the terms and provisions of such federal reserve act; provided, that such investment shall in no case exceed the minimum amount required to join or associate itself with or maintain membership in such federal reserve bank; provided, also, that such investment may be carried in either the commercial, savings, or trust department, or may be apportioned to any two or all three of such departments of any departmental state bank member.

Member bank may invest part of capital, surplus, or reserve fund in capital stock of Federal Reserve bank, as specified.

Any bank joining or associating itself with such federal reserve bank shall have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member bank in any such federal reserve bank.

All powers, not in conflict with State laws, conferred upon member bank.

by the provisions of the federal reserve act and the regulations of the federal reserve board. Such member bank and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by the bank act and by any other law of this state.

Member bank subject to federal examinations.

Any bank which shall have become a member of a federal reserve bank shall be subject to the examinations required under the terms of the federal reserve act, and the superintendent of banks may, in his discretion, accept such examination in lieu of the examination required under the provisions of this act, and he, his agents and employees, may furnish to the federal reserve board, the federal reserve bank, or to examiners duly appointed by the federal reserve board or the federal reserve bank, copies of all examinations made, and may disclose to such federal reserve board, federal reserve bank, or examiner, any information with reference to the condition of affairs of state bank members.

Any bank may convert into Nat'l. Banking Ass'n, under federal or state law.

Section 56a. Nothing in this act shall prevent or prohibit any bank from converting into a national banking association under the provisions of section five thousand one hundred fifty-four of the United States revised statutes, or section eight of the federal reserve act, or any other federal or state law; provided, however, that in the event of the application for conversion of a state bank into a national banking association the superintendent of banks may in his discretion revoke any or all licenses for branch offices granted within two years immediately preceding said application for conversion of any state bank into a national banking association.

Condition for conversion by State savings bank or bank having savings department.

No savings bank and no departmental bank having a savings department, organized and existing under the laws of the State of California, shall convert into a national banking association except upon the following conditions:

1. Coincident with its application to the comptroller of the currency, any such savings or departmental bank shall file with the superintendent of banks formal notice of intention to convert into a national banking association.

2. Prior to conversion, any such savings or departmental bank shall place in the hands of the superintendent of banks,

(a) A constructive notice for newspaper advertisement, directed to its savings depositors, of the fact of conversion;

(b) Actual notice addressed to each and every savings depositor, at his or her last known address, enclosed in stamped and addressed envelopes ready for mailing, this notice to be as follows:

"You are hereby notified that the undersigned, formerly the....., now the....., has converted from a banking corporation existing under the laws of California into a national banking association; and has therefore ceased to be under the jurisdiction and direction of the California state banking department and the bank act of California, and is now under the jurisdiction and control of the federal reserve act and the national act." No other matter may be enclosed with this notice unless by permission of the superintendent of banks.

Upon conversion
bank to file with
Supt. certified copy
of its authorization
and surrender State
license.

3. Upon conversion said bank shall file with the superintendent of banks a copy of its authorization as a national banking association, certified by the comptroller of the currency; and shall surrender to the superintendent of banks its license as a state banking corporation.

4. Immediately following the conversion of a state bank, the superintendent of banks shall cause the publication of the notice provided in subdivision (a) of paragraph two of this section; same to be at least once a week for four successive weeks in a newspaper of gen-

Immediately fol-
lowing conversion,
Supt. shall publish
notice of fact of
conversion, as
specified.

eral circulation, printed and published in every town where said bank transacts its business and if there be no such paper in any such town or towns, then in the county where such bank transacts its business, and the superintendent of banks shall cause to be mailed the notices provided in subdivision (b) of paragraph two of this section. The advertisement shall be at the expense of the converting bank, prepaid to the department.

[Publishers' note, re Section 56a, as amended 1921:

This amendment adds, in the first paragraph, a proviso permitting the superintendent, in his discretion, upon application for conversion of a state bank into a national banking association, to revoke any and all licenses for branch offices granted within two years immediately preceding such application.]

Bank organized under
U. S. laws, may
become State bank.

Section 56b. Any banking corporation organized under the laws of the United States and doing business in this state may become an incorporated bank of this state with all the powers and subject to all the obligations and duties of banks organized under the provisions of this act, provided such banking corporation has authority by virtue of any law of the United States, to dissolve its organization as a national banking corporation. A national banking corporation desiring to become such an incorporated bank of this state shall proceed in the following manner:

Procedure for legal
dissolution of such
national banking
corporation and
creation of State
banking corporation.

It shall take such action, in the manner prescribed or authorized by the laws of the United States, as shall make its dissolution as a national banking corporation effective at a future date certain.

A majority of its directors shall thereafter and before the time when its dissolution becomes effective, subscribe and acknowledge in duplicate upon the authority in writing of the owners of at least two-thirds of its capital stock, the articles of incorporation required by section two hundred ninety of the Civil Code of California, and attach thereto copies of the said written authority of stockholders and the resolution fixing the date at which its dissolution as a national banking association shall become effective, executed in the same manner as said articles of incorporation.

It shall thereupon take such action, in the manner prescribed or authorized by the laws of the State of California, as shall create a corporation for the purposes set forth in the said articles of incorporation.

It shall thereafter and before the time when its dissolution becomes effective, make application to the superintendent of banks for his certificate of authorization to transact business as is prescribed in sections one hundred twenty-seven and one hundred twenty-eight of this act.

If the superintendent of banks shall issue his certificate of authorization to transact business, its corporate existence as a state bank shall begin as soon as its dissolution as a national banking corporation becomes effective. But such bank shall transact no business as a state bank other than that relating to its organization until it shall have received the said certificate of authorization of the superintendent of banks.

When corporate existence begins.

At the time when the corporate existence of said state bank begins all the property of the dissolved national banking association shall immediately by act of law and without any conveyance or transfer be vested in and become the property of such state bank. The directors of the dissolved corporation at the time of such dissolution shall be the directors of the bank created in pursuance hereof until the first annual election of directors thereafter, and shall have power to take all necessary measures to perfect its organization, and to adopt such regulations concerning its business and management as may be proper and not inconsistent with law.

Property of dissolved banking association, by act of law, vests in State bank.

Directors of dissolved corporation to be directors of bank created hereunder, until first annual election of directors thereafter.

[Publishers' note, re Section 56b, new, enacted 1921:

This new section provides the procedure by which a national banking association may become an incorporated state bank. The national bank shall first take such action as is necessary to make its dissolution effective at a future date certain. Thereafter the directors shall execute articles of incorporation and secure the certificate from the superintendent authorizing it to carry on a banking business. If the superintendent issues his certificate of authorization, its corporate existence as a state bank shall begin as soon as its dissolution as a national bank becomes effective, and all the property of the national bank becomes by act of law vested in the state bank.]

Lien of tax assessment or bond levied or issued by State or subdivision thereof, if same or installment thereof not delinquent, not deemed prior encumbrance as regards requirement of first-lien real estate security.

Section 57. Whenever in this act it is required that loans or investments shall be secured by a first lien on real estate, the lien of any tax, assessment or bond levied or issued by this state or by any county, city and county, city, town, municipality, school district, reclamation district, irrigation district or any other political or governmental subdivision of this state (not including bonds given pursuant to any law authorizing the same by any person or corporation in lieu of payment of any tax or assessment levied against any particular real property) and the lien of any assessment levied to pay such bonds shall not be deemed to be a prior encumbrance or lien on such real property unless an installment or call of such tax, assessment or bond shall be due and delinquent; and any bonds given pursuant to any law authorizing the same by any person or corporation in lieu of payment of any tax or assessment levied against any particular real property and any lien given to secure the payment of assessments or subscriptions to meet the requirements of any law of the United States in respect to any irrigation project of the United States in this state which may be levied, made or received by any corporation or association formed to carry out the objects and requirements of any such law of the United States shall not be deemed to be a prior encumbrance or lien on such real property if the lien given to secure such assessments and subscriptions taken with the loan or investment so secured shall amount to not more than sixty per centum of the market value of the land securing the same.

Bonds given pursuant to law, by any person or corporation, in lieu of payment of tax or assessment upon real property, and lien securing payment of assessments or subscriptions in respect to U. S. irrigation project in this State, which may be levied, under law of U. S.—when not deemed prior encumbrance or lien.

Priority of liens.

Section 57a. Whenever in this act it is required that loans or investments shall be secured by a first lien on real estate, any lien given to secure the payment of assessments or subscriptions to meet the requirements of any law of the United States in respect to any irrigation project of the United States which may be levied, made or received by any corporation or association formed to carry out the objects and requirements of any such law

of the United States, or the lien of any tax, assessment or bond levied, or issued by any state in the United States other than the State of California or by any county, city and county, city, town, municipality, school district or any other political or governmental subdivision of such state and the lien of any assessment levied to pay such bonds shall be deemed to be a prior encumbrance or lien on such real property; provided, however, that with the previous written consent of the superintendent of banks any bank may make loans or investments upon the security of real property so encumbered if the total of all such liens taken with the loan or investment so secured shall amount to not more than fifty per cent of the market value of the real property securing the same; and provided, further, that the superintendent of banks shall grant no such permission in the event that the payment of any installment or call of any such tax, assessment or bond or other governmental lien is due and delinquent.

Consent of
Supt.—when neces-
sary to obtain.

[Publishers' note, re Section 57a, 1921:

This new section provides that whenever in this Act it is required that loans or investments should be secured by a lien on real estate, the lien of any tax assessment or bond levied or issued by any State other than the State of California or by any county or other governmental subdivision of such State, and the lien of any assessment levied to pay such bonds, shall be deemed to be a prior incumbrance or lien; provided, however, that with the previous written consent of the superintendent, loans or investments may be made upon the security of property so encumbered, if the total of such liens, taken with the loan or investment so secured, shall amount to not more than fifty per cent of the market value.

The superintendent shall grant no such permission if the payment of any installment or call for any such tax assessment or bond is due and delinquent.]

Section 58. Any bank possessing a capital and surplus of one million dollars or more may file application with the superintendent of banks for permission to exercise, upon such conditions and under such regulations as he may prescribe, either or both of the following powers:

Any bank with
\$1,000,000 or more
capital may apply
to Supt. for permit.

First—To establish branches in foreign countries or in dependencies or insular possessions of the United States for the furtherance of the foreign commerce of this state and of the United States and to act if required to do so as fiscal agents of the United States.

1st. To establish
foreign branches, and
act as fiscal agents
of U. S.

2nd. To invest not exceeding specified percentages of paid-in capital stock and surplus in stock of State or U. S. banks engaged in foreign banking; or in facilitating foreign exportation from U. S. or its dependencies, etc.

Second—To invest an amount not exceeding in the aggregate ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the State of California, or of the United States, or of any state thereof, and principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Any bank, without regard to the amount of its capital and surplus, may file application with the superintendent of banks for permission, upon such conditions and under such regulations as may be prescribed by said superintendent of banks, to invest an amount not exceeding in the aggregate five per centum of its paid-in capital and surplus in the stock of one or more corporations chartered or incorporated under the laws of the United States or of any state thereof, and, regardless of its location, principally engaged in such phases of international or foreign financial operations as may be necessary to facilitate the export of goods, wares or merchandise from the United States or any of its dependencies or insular possessions to any foreign country; provided, however, that in no event shall the total investments, authorized by this section by any bank exceed ten per centum of its paid-in capital and surplus; provided, also, that such investments may be carried in either the commercial, savings or trust department, or may be apportioned to any two or all three of such departments of any departmental state bank.

Such application shall specify the name and capital of the bank filing it, the powers applied for and the place or places where the banking or financial operations proposed are to be carried on. The superintendent of banks shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have

Supt. may approve or reject application in whole or part.

power from time to time to increase or decrease the number of places where such banking operations may be carried on.

Every bank operating foreign branches shall be required to furnish information concerning the condition of such branches to the superintendent of banks upon demand, and every bank investing in the capital stock of banks or corporations hereinbefore described in this section, shall be required to furnish information concerning the condition of such banks or corporations to the superintendent of banks upon demand, and the superintendent of banks may order special examinations of the said branches, banks or corporations at such time or times as he may deem best. The cost of such special examinations shall be paid by said branches, banks or corporations.

Information re condition of foreign branches, etc., to be furnished Supt. on demand.

Before any bank shall be permitted to purchase stock in any such corporation the said corporation shall enter into an agreement or undertaking with the superintendent of banks to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said superintendent of banks may prescribe for the place or places wherein such business is to be conducted. If at any time the superintendent of banks shall ascertain that the regulations prescribed by him are not being complied with, said superintendent of banks is hereby authorized and shall have power to institute an investigation of the matter and to send for persons and papers, subpoena witnesses and administer oaths in order to satisfy himself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the bank or banks which may be stockholders therein, to comply with the regulations laid down by the said superintendent of banks, such banks may be required to dispose of stockholdings in the said corporation upon thirty days' notice, and in the event of their noncompliance

If regulations of Supt. not complied with, he may institute investigation.

Such bank to conduct accounts of each foreign branch independently. with such order the superintendent of banks may institute proceedings for forfeiture of license.

Every such bank shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accruing to each branch as a separate item.

[Publishers' note, re Section 58, as amended 1921:

This amendment provides that banks which establish branches in foreign countries or dependencies for the furtherance of foreign commerce may act, if required to do so, as fiscal agents of the United States.

Previous to this amendment, banks might invest in the capital stock of California corporations principally engaged in international or foreign banking. The amendment adds corporations incorporated under the laws of the United States or of any State.

Previously, also only banks having a capital of a million or more dollars might establish such branches or invest in such corporations. The amendment permits any bank, without regard to the amount of its capital and surplus, with the permission of the superintendent, to invest not exceeding in the aggregate five per cent of its paid-in capital and surplus, in the stock of one or more corporations chartered or incorporated under the laws of the United States or of any State thereof, and regardless of its location, principally engaged in such phases of international or foreign finance operations as may be necessary to facilitate the export of goods, wares or merchandise from the United States or any of its dependencies or insular possessions to any foreign country. The total investments authorized by this section shall not exceed ten per centum of the bank's paid-in capital and surplus. Such investments may be carried in either the commercial, savings or trust department, or may be apportioned to any two or all three of such departments.]

ARTICLE II.

SAVINGS BANKS.

Capital required of savings banks.

Section 60. Every savings bank hereafter organized must have paid up in cash a capital stock not less than

Population not over 5,000—\$25,000.

(a) Twenty-five thousand dollars if its principal place of business is located in any locality the population of which does not exceed five thousand persons;

If 5,000 to 25,000 population—\$50,000.

(b) Fifty thousand dollars if its principal place of business is located in any city the population of which is more than five thousand persons, but does not exceed twenty-five thousand persons;

If 25,000 to 100,000 population—\$100,000.

(c) One hundred thousand dollars if its principal place of business is located in any city the population of which is more than twenty-five thousand persons but does not exceed one hundred thousand persons;

If 100,000 to 200,000 population—\$200,000.

(d) Two hundred thousand dollars if its principal place of business is located in any city the population of

which is more than one hundred thousand persons but does not exceed two hundred thousand persons; BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

(e) Three hundred thousand dollars if its principal place of business is located in any city the population of which is more than two hundred thousand persons. If more than 200,000
population—\$300,000.

Excepting that any savings bank organized without capital stock must have a reserve fund of at least one million dollars. Reserve fund of sav-
ings bank without
capital stock.

Until the capital stock or reserve fund hereinbefore required shall be actually paid in, the superintendent of banks shall refuse to issue the certificate required by this act. No certificate to be
issued until such
capital stock or re-
serve fund is paid in.

The foregoing classification shall not apply to any savings bank already in existence which has received its certificate to do a banking business from the superintendent of banks; nor to any bank the location of which shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Classification not to
apply to certain
banks.

Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception; provided, that nothing herein shall be construed to affect the provisions of section nineteen of this act relative to the proportion of capital and surplus to deposits or of section twenty-three of this act relative to the capital stock required of banks doing a departmental business. Excepted banks may
not decrease but may
increase capital
stock.

Nothing herein affects provisions of Sec. 19 or of Sec. 23 of Act. Nothing herein af-
fects provisions of
Sec. 19 or of Sec.
23 of Act.

The provisions of section twenty-three of this act, as to population, shall apply to any bank organized under the provisions of this section; provided, however, that nothing herein contained shall prevent the superintendent of Bank hereafter or-
ganized in locality
included by annexa-
tion in city requir-
ing larger capitaliza-
tion—paid-up capital
required.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

banks in the exercise of his discretion from granting his license to any bank hereafter organized in a locality which has been included by annexation or consolidation within the limits of a city requiring a larger capitalization with a capital stock paid up in cash equal to that which would have been required for said locality if it had not been included by annexation or consolidation within the limits of a city requiring a larger capitalization; provided, that no bank so licensed shall be permitted to establish any branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township which has been included by annexation or consolidation within the limits of a city requiring a larger capitalization until it shall have the capital required of banks in such city requiring said larger capitalization.

[Publishers' note, re Section 60, as amended 1921:

This amendment adds the same provision that was added to Section 23, viz.: that the superintendent, in his discretion, may grant a license to a bank there-after organized in a locality which has been included by annexation or consolidation within the limits of a city requiring a larger capitalization, with the capital that would have been required if it had not been so included.]

Section 61. Any savings bank may purchase, hold or sell real or personal property, as follows:

Property which
savings bank may
purchase, hold and
convey.

1. The lot and building in which the business of the bank is carried on; furniture and fixtures, vaults and safe deposit vaults and boxes and other personal property such as may be necessary or proper to carry on its banking business; such lot and building, furniture and fixtures, vaults and safe deposit vaults and boxes shall not, in the aggregate, be carried on the books of such bank as an asset to an amount exceeding its paid-up capital and surplus; and hereafter, the authority of a two-thirds vote of all of the directors shall be necessary to authorize the purchase of such lot and building, or the construction of such building.

Bank premises, fur-
niture, fixtures, etc.,
two-thirds vote of
directors necessary
for purchase or
construction.

Property mortgaged,
pledged or conveyed
as security for
loans.

2. Such as may have been mortgaged, pledged or conveyed to it in trust for its benefit in good faith, for money loaned in pursuance of the regular business of the corporation.

3. Such as may have been purchased at any sales under pledge, mortgage or deed of trust made for its benefit for money so loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

Property purchased
at sales under pledge,
mortgage, etc.

4. Gold or silver bullion, and United States mint certificates of ascertained value.

Bullion, mint
certificates.

5. Bonds and other securities of the following classes:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest;

Bonds and other
securities, viz.:
Bonds or interest-
bearing notes or
obligations of U. S.,
etc.

(b) Bonds of the State of California, or those for which the faith and credit of the State of California are pledged for the payment of principal and interest, or those of any county, city and county, city or school district of this state;

Bonds of this State
or its subdivisions.

(c) Bonds or stocks or notes of any state in the United States, other than the State of California, that has not, within twenty-five years previous to making such investment by such bank, defaulted in the payment of any part of either principal or interest, or those of any county, city and county, city or town, or school district, in any state of the United States other than the State of California, issued under authority of any law of such state, which county, city and county, city or town, or school district, had, as shown by the federal or state census next preceding such investment, a population of more than twenty thousand inhabitants; provided, however, that the entire bonded indebtedness of such county, city and county, city or town, or school district, including such issue of bonds or stocks or notes, does not exceed fifteen per centum of the value of the taxable property therein as shown by its last equalized assessment roll; and provided, further, that such county, city and county, city or town, or school district, or the state in which it is located has not defaulted in payment of any part of either principal or interest due upon

Bonds, stocks, etc.,
of any state in U. S.,
or of any county,
city or town, in any
foreign state of U. S.,
of specified popula-
tion and bonded
indebtedness.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

Bonds of any dis-
trict organized under
laws of State ap-
proved by commis-
sion under State law.

any legally authorized bond or stock or note issue within twenty-five years next preceding such investment;

(d) Bonds of any district organized under the laws of the State of California which are required to be and are investigated and approved by a commission now or hereafter authorized by a law of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks;

Notes or bonds
secured by mortgage
or deed of trust,
payment guaranteed
by mortgage insur-
ance and mortgage
participation certs.

(e) Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of chapter eight of title two of part four of division first of the Civil Code.

Bonds, securities
purchasable after cer-
tification by Supt.
under §61a, viz.:

6. Bonds and other securities of the following classes; provided, that such bonds or securities shall first have been certified by the superintendent of banks after an investigation as provided for under section sixty-one a of this act;

Bonds, etc., of, or
pledged by any
foreign country, etc.

(a) Bonds or interest-bearing notes or obligations of any foreign country or government, or those for which the faith and credit of any foreign country are pledged for the payment of principal and interest;

Bonds of irrigation
district outside of
California approved
by Commission,
within debt limita-
tion.

(b) Bonds of any district organized under the laws of any state in the United States other than the State of California for the purpose of irrigating lands within such district, which are required to be and are investigated and approved by a commission now or hereafter authorized by a law of said state to conduct such investigation and give such approval; provided, that the entire indebtedness of such district, including the bonds under consideration, and all prior liens, within the meaning of section fifty-seven a of this act, do not exceed fifty per centum of the aggregate market value of the lands within said district, and of the irrigation system owned or to be acquired by said district with the proceeds of said bonds;

(c) Bonds of any district organized under the laws of the State of California not otherwise provided for in this section;

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.
Bonds of any Cali-
fornia district, not
otherwise provided
for in Sec.

(d) (1) Bonds of any railroad corporation, as the same is defined in the "public utilities act," incorporated under the laws of any state in the United States and operating exclusively in the United States; provided, that said corporation shall have had net earnings for either its fiscal year or twelve consecutive months in the fourteen months next preceding application for certification of said bonds under the provisions of section sixty-one a of this act, amounting to at least one and one-half times the interest on all bonded indebtedness outstanding at the time of said certification, and on all additional bonds then proposed to be issued; or,

Bonds of any "rail-
road corporation," as
defined in "public
utilities act," oper-
ating in U. S., with
specified net earnings.

(2) Bonds of any railroad corporation, the payment of which is guaranteed, both as to principal and interest, by a railroad corporation, whose bonds are a legal investment for savings banks in this state.

6 (d) (2)
Bonds of any R. R.
corporation, payment
of which is guaran-
teed by R. R. cor-
poration, etc.

(e) (1) Bonds of any other public utility corporation, as the same is defined in the "public utilities act," incorporated under the laws of any state in the United States and operating exclusively in the United States; provided, that said corporation shall have had net earnings for either its fiscal year or twelve consecutive months in the fourteen months next preceding application for certification of said bonds under the provisions of section sixty-one a of this act, amounting to at least one and one-half times the interest on all bonded indebtedness outstanding at the time of said certification, and on all additional bonds then proposed to be issued; or,

6 (e) (1)
Bonds of any other
public utility cor-
poration, defined and
operating as above.

(2) Bonds of any similar public utility corporation, the payment of which is guaranteed, both as to principal and interest, by a public utility corporation other than a railroad corporation, whose bonds are a legal investment for savings banks in this state.

Guaranteed bonds of
similar public utility
corporation.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

Income of above cor-
porations—how
determined.

Nature of security
required for R. R.
or other public utility
company bonds:

Closed first mortgage
or deed of trust, or

First mortgage or
deed of trust with
restrictions on issuing
further bonds; or

Refunding mtge. or
deed of trust, pro-
viding for retirement
of prior-lien mtge.
debts; or

Underlying or di-
visional, closed mtge.
or deed of trust prop-
erty forming part of
the operating system
of owning corpora-
tion, etc.

In determining the income of any railroad or other public utility corporation mentioned herein, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation the entire business and income-producing property of which the corporation issuing such bonds has wholly acquired.

All bonds issued by a railroad or other public utility corporation must be secured by a mortgage or deed of trust which at the time of said certification is: either

- I. A closed first mortgage or deed of trust; or,
- II. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements heretofore specified in either paragraph (d) or (e) of subdivision 6 of this section applicable to such corporation after including the additional bonds then proposed to be issued; or,
- III. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation, and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements of such corporation after including the additional bonds then proposed to be issued; or,
- IV. An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, maintenance charges, operating ex-

penses, taxes, and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust, or, if such income, maintenance charges or operating expenses can not be definitely ascertained, on the proper proportionate share of such property in the general income, maintenance charges, operating expenses, and taxes of the corporation then owning such property and on the mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

(f) Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; provided, that the entire note or bond issue shall not exceed sixty per centum of the market value of such real estate, or such real estate with improvements, taken as security; and provided, further, in case the said note or bond issue is created for a building loan on real estate, that at no time shall the entire outstanding note or bond issue exceed sixty per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security; and provided, also, in case said real estate is located outside of this state, that the provisions of this paragraph shall be subject to the limitations and modifications contained in section fifty-seven a of this act; and provided, also, that no such notes or bonds shall be disqualified as investments for savings banks for the reason that the payment thereof is guaranteed by a policy of mortgage insurance.

Notes or bonds se-
cured by first mort-
gage or deed of trust
or other 1st lien on
real estate, etc.

In determining the market value of any real estate under the provisions of the preceding paragraph where such real estate, improved or unimproved, consists of oil or other mineral or timber land, the value represented by such oil or other mineral or timber shall not be included in fixing such market value. Nothing herein contained shall prevent savings banks from making loans secured by mortgage or deed of trust upon lands wherein redwood timber is included in fixing the market value thereof.

Where real estate,
etc., consists of oil
or other mineral or
timber land, the
value of oil, mineral
or timber not in-
cluded in fixing
market value.

Redwood timber may
be included in fixing
market value.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

When bank may,
without certification
by Supt., purchase
notes or bonds under
par. (f) subd. six of
this Sec.

Any bank, however, may, without such certification by the superintendent of banks, purchase any note or bond or issue of notes or bonds provided for in said paragraph (f) of subdivision six of this section, whenever such purchase constitutes the entire amount of notes or bonds executed by the makers thereof and secured by the same real estate; provided, that no savings bank shall hold any such notes or bonds unless such holding constitutes the entire issue thereof at any time outstanding; and provided, also, that nothing in this paragraph shall be construed to permit savings banks to invest in notes or certificates evidencing participation in any mortgage on real estate unless by law specifically authorized, or in or on any form of obligation secured by any undivided interest in real estate designed to distribute the obligation so secured.

Collateral trust bonds
or notes secured by—

Deposit of notes or
bonds authorized for
investment by Sec.,
of specified market
value;

Deposit of notes or
bonds so authorized
by this Sec., and
other securities, of
combined market
value and of par
value, as specified.

R. R. equipment
trust certificates,
issued or guaranteed,
and with lien
priority, as specified.

(g) Collateral trust bonds or notes when secured by either:

(1) Deposit of notes or bonds authorized for investment by this section of a market value at least fifteen per centum in excess of the par value of the collateral trust bonds or notes issued; or,

(2) Deposit of notes or bonds authorized for investment by this section and other securities of a combined market value at least twenty per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of said collateral trust bonds or notes shall in no case exceed the market value of that portion of the security represented by notes or bonds authorized for investment by this section.

(h) Railroad equipment trust certificates or obligations issued or guaranteed by a corporation to which a loan or loans for the construction, acquisition, purchase or lease of railroad equipment has or have been made with the approval of the Interstate Commerce Commission; provided, that the entire issue shall not exceed sixty per centum of the cost of such equipment and shall mature serially not later than fifteen years from date of issue;

provided, further, that said certificates or obligations must be secured by or be evidence of a prior lien upon or reservation of title to such equipment, or by an assignment of or prior interest in the rent or purchase notes given for the hiring or purchasing of said equipment.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

(i) Acceptances issued by a discount, acceptance or investment corporation formed under the Federal statute commonly known as the "Edge Act" or under the "Investment Companies Act" of New York, or by a corporation of identical character and capacity, organized under the laws of any state of the United States.

Acceptances issued by discount, accept-
ance or investment
corporation under
federal and state
law.

The legality of investments heretofore lawfully made pursuant to the provisions of this section, or of any law of this state as it existed on and subsequent to July 1, 1909, shall not be affected by any amendments to this section or this act; nor shall any such amendments require the changing of investments once lawfully made under this act.

Legality of invest-
ments lawful when
made, not affected
by amendments.

Any bonds authorized by this section as a legal investment for savings banks may be carried on the books of said bank at their investment value, based on their market value at the time they were originally bought, unless the superintendent of banks shall require any or all of the bonds which may thereafter have a market value less than the original investment value to be written down to such new market value which shall be done gradually if practicable and in such manner as he may determine; or he may, by a plan of amortization to be determined by him, require such gradual extinction of premium as will bring such bonds to par at maturity.

Bonds authorized by
Sec. as investment—
how carried on books
of bank, etc.

When it shall be necessary to prevent loss to any savings bank on an obligation owned or on a debt previously contracted in good faith, it may, with the previous written consent of the superintendent of banks, purchase or acquire bonds of any railroad corporation incorporated under the laws of the state of California and operated exclusively therein, notwithstanding such bonds do not

Bonds of intrastate
R. R. corp'n not
conforming to Sec.—
when purchasable.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.** conform to the requirements in this section contained; provided, any bonds so purchased or acquired must be sold for the best price obtainable by any bank within five years after such purchase or acquisition.

Classes of bonds is-
sued by "public
utility," in which
savings bank may
invest, etc.

No savings bank shall hereafter purchase or loan money upon any bond, note or other evidence of indebtedness, issued by any "public utility," subject to the jurisdiction, regulation or control of the railroad commission of this state under the provisions of the "public utilities act," approved December 23, 1911, and acts amendatory thereof or supplemental thereto, unless each such bond, note or other evidence of indebtedness was either:

- (a) Issued prior to the taking effect of the "public utilities act"; or,
- (b) Issued under authority of the railroad commission, in accordance with the provisions of said act; or,
- (c) A note issued for a period not exceeding twelve months, in accordance with the provisions of subdivision (b) of section fifty-two of said act.

[Publishers' note, re Section 61, as amended 1921:

This section has been materially reshaped and revised. Any savings bank may purchase, hold or sell real or personal property as follows:

- 1, 2 and 3 as heretofore;
- 4. Gold or silver bullion and United States mint certificates of ascertained value;
- 5. (a), (b), (c) and (d). Bonds or interest-bearing notes or obligations of the United States, of the State of California, of any county, city and county, city or school district of this State; bonds or stocks or notes of any State in the United States other than California, or those of any county, city and county, city or town or school district of any State other than California, having a population of more than 20,000 inhabitants; provided the entire bonded indebtedness thereof does not exceed fifteen per centum of the value of the taxable property therein, and that payment of any part of principal or interest has not been defaulted within five years next preceding such investment, and bonds of any district organized under the laws of California which are investigated and approved by an authorized commission, by authority of which approval the bonds are declared to be legal investments for savings banks.

The purchase of bonds of the foregoing kinds may be made without consent of the superintendent.

6. (a), (b), (c), (d), (e), (f), (g), (h) and (i) cover bonds and securities which may be purchased after certification by the superintendent, following an investigation as provided under Section 61a.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

(a) Bonds of any foreign country.

(b) Bonds of an irrigation district outside of California, which are investigated and approved by a duly authorized commission of the State in which the district is located, and by authority of which approval the bonds are available for investment by savings banks in said State, with specified debt limitation;

(c) Bonds of any district organized under the laws of California not otherwise provided for in this section.

(d) Railroad bonds.

(e) Other public utility bonds.

Bonds issued by a railroad or other public utility corporation must be secured by mortgage or deed of trust conforming to the present requirements, except that under IV—an underlying or divisional closed mortgage or deed of trust—the proviso concluding the old section is omitted.

(f) Notes or bonds secured by first mortgage or deed of trust, or other first lien upon real estate. The same as the previous (h) with this addition: "That in case the real estate is located outside of this State, the provisions of this paragraph shall be subject to the limitations and modifications contained in Section 57a."

A bank may, without such certification by the superintendent, purchase any note or bond issue, provided for in paragraph (f), whenever such purchase constitutes the entire amount of notes or bonds secured by the same real estate.

(g) Collateral trust bonds or notes when secured as at present provided under (i) 1 and 2, except that the deposit may be of notes or bonds instead of bonds alone as at present.

(h) Railroad equipment trust certificates, or obligations issued or guaranteed by a corporation to which a loan for the construction, acquisition, purchase or lease of railroad equipment has been made, with the approval of the Interstate Commerce Commission. The entire issue shall not exceed sixty per cent. of the cost of the equipment and shall mature serially not later than fifteen years from the date of issue. The certificates or obligations must be secured by or be evidence of a prior lien upon or reservation of title to such equipment, or by an assignment of or prior interest in the rent or purchase notes given for the hiring or purchasing of the equipment.

(i) Acceptances issued by a discount acceptance or investment corporation formed under the Edge Act or the Investment Companies Act of New York or by an identical corporation. The legality of previously and lawfully made investments is not affected, nor do the amendments require the changing of investments lawfully made.

The provision regulating the method of carrying investments on the books of a bank, and for the purchase of the bonds of a California railroad corporation to prevent loss, and the provision

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

regarding the purchase or loaning of money upon public utility bonds, notes and evidences of indebtedness remain unchanged.

Provisions, formerly appearing in this section, relieving the State from liability to pay or to guarantee the validity of any stocks, bonds, etc., and prohibiting advertising that securities conform to the law, etc., have been transferred to Section 61a.]

Section 61a. The superintendent of banks shall have power, when any issue of bonds or securities is presented to him for that purpose, to investigate and ascertain whether such bonds or securities come within and fully conform to all the requirements of paragraphs (d), (e), (f) or (g) of subdivision six of section sixty-one of this act, or of either of said paragraphs. He may also investigate and ascertain for what period of time, and upon what conditions, any franchise granted to or held by any corporation issuing any such bonds or securities will remain in force, and any other facts or conditions bearing upon the value or sufficiency of such bonds. The superintendent of banks may accept and act upon the

On questions concerning securities, Supt. may act on legal opinions and appraisements presented by applicant.

opinions and appraisements of any attorneys, engineers, or appraisers which may be presented by such person or corporation, so applying, and the reports of any of the executive officers of the corporation issuing such bonds or securities, on any question of fact concerning or affecting such bonds or securities, the security thereof, the franchise conditions herein mentioned, or the financial condition of the corporation issuing the same. In lieu of or in addition to such opinions, appraisements and reports, the

Supt. may select attorneys, appraisers and accountants, at expense of applicant.

superintendent of banks may, if he deems proper, have any or all such matters passed upon and certified to him by attorneys, engineers, appraisers or accountants of his own selection at the expense of the applicant. If the

If Supt. finds bonds or securities conform to Sec. 61, he shall so certify; otherwise certificate refused.

superintendent of banks shall find from such investigation that the bonds or securities so presented come within and fully conform to all the requirements of any of said paragraphs of subdivision six of section sixty-one of this act, and is satisfied from such investigation as to such franchise conditions, he shall so certify unless for any reason he shall be of the opinion that such bonds are not

a safe or proper investment for savings banks, and in such event or if such bonds shall fail to meet the requirements of this act such certificate must be refused. The Superintendent of Banks also shall have power to investigate and ascertain the status and sufficiency as investments for savings banks of any bonds or notes or obligations specified in paragraphs (a), (b), (c), (h) and (i) of subdivision six of section sixty-one of this act. If upon such investigation it shall be determined in the opinion of the superintendent of banks that any bonds or notes or obligations specified in paragraphs (a), (b), (c), (h) and (i) of subdivision six of section sixty-one of this act constitute a proper investment for savings banks he shall so certify.

Any certificate issued by the superintendent of banks under authority of the provisions of this section may be revoked at any time in his discretion. Any certificate issued in relation to notes or bonds of a railroad or other public utility corporation shall expire not later than three months after the end of the then current fiscal year of the corporation issuing such notes or bonds.

Any such certificate expiring may be renewed or extended by the superintendent of banks without application therefor from such corporation or other interested parties if he shall be satisfied that the notes or bonds referred to in said certificate are in conformity with the then requirements of section sixty-one of this act.

The actual expense of investigating any issue of bonds or securities so presented shall be paid by the person, district or corporation presenting the same for investigation, and the superintendent of banks, before making such investigation, may require a cash deposit of such amount as he may deem necessary to cover such expense. The superintendent of banks shall keep an official list of all bonds and securities certified by him.

No provision of this act, and no act or deed, done or performed under or in connection therewith, and no find-

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

Supt. may investigate
and certify as to
sufficiency of bonds
specified in pars. (a),
(b), (c), (h) and (i)
of Sub. six, Sec. 61.

Supt. may revoke
certificate.

Expiration of
certificate.

Expiring certificate
renewable.

Expense of investi-
gating issues, by
whom paid.

Official list of
securities.

State not to be liable
for payment of, or to
guarantee regularity
of securities certified
by Supt.

BONDS WHICH ARE LEGAL INVESTMENTS—Continued. **ing made or certificate issued under any provision thereof, shall be held or construed to obligate the State of California to pay, or be liable for the payment of, or to guarantee in any manner whatsoever, the regularity or the validity of the issuance of any stock or bond certificate, or bond, note, or other evidence of indebtedness certified under any provision of this act, by the superintendent of banks.**

Advertising bonds as legal investment for savings bank—when unlawful.

It shall not be lawful for any individual, firm, association, bank, trust company, stock company, copartnership or corporation to advertise by newspaper or circular or in any other manner that any securities are legal investments for savings banks in this state unless such securities are at the time of said advertisement legal investments for savings banks in this state, or to use any advertisement which might lead the public to believe that any securities conform to the requirements of law relating to investments by savings banks unless such advertisement shall have been approved in writing by the superintendent of banks prior to publishing, circulating or otherwise issuing the same. Any individual, firm, association, bank, trust company, stock company, copartnership or corporation who shall advertise any securities in violation of the provisions of this paragraph shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment.

Penalty.

[Publishers' note, re Section 61a, as amended 1921:

No changes are made in the language of the section as it stood prior to the amendment, except the changes of the letters and numbers referring to the previous section. The provisions previously appearing in Section 61 relieving the State from liability to pay or to guarantee the validity of any stocks, bonds, etc., and prohibiting advertising that securities conform to the law relating to investments by savings banks, unless they have been certified, have been transferred to Section 61a.]

Dealing in real or personal property, and contracting of debt.

Section 62. No savings bank shall, directly or indirectly, deal or trade in real or personal property in any other case or for any other purpose than is authorized

by this act, and shall not contract any debt or liability for any purpose whatever other than for deposits, except as in this section provided.

Savings banks may pay regular depositors, when requested by them, by draft upon deposits to their credit with their banks, and charge current rate of exchange for such drafts.

Savings banks may on request pay depositors by draft, and charge exchange therefor.

No savings bank shall borrow money, or pledge or hypothecate any of its securities, except to meet the immediate demands of its own depositors, and then only in pursuance of a resolution adopted by a vote of a majority of its board of directors, duly entered upon their minutes, wherein shall be recorded the ayes and nays upon each vote; also with the written approval of the superintendent of banks, and he shall have the authority to fix the amount to be borrowed, the amount and character of the securities to be pledged or hypothecated, and the term and rate of interest thereon; provided, that any savings bank may, for the purpose of performing its functions and transacting its business as authorized by this act, rediscount, with or without guarantee or endorsement, with the federal reserve bank, its acceptances, notes or any other securities, available for rediscount with a federal reserve bank, in any amount up to but not exceeding its capital and surplus or reserve without consent of the superintendent of banks, and shall not be considered as borrowed money within the meaning of this section; provided, also, that savings banks may, in the manner authorized by law, and without the previous approval of the superintendent of banks, borrow the public moneys of the United States, the State of California, the counties, cities and counties, and towns of

Savings bank not to borrow money except to meet demands of depositors.

said State of California and receive such public moneys on deposit; provided, also, that savings banks may, in the manner authorized by law, and without the previous approval of the superintendent of banks, borrow postal savings moneys of the United States, and receive such

Savings banks may, to extent of capital and surplus or reserve, rediscount eligible assets with Federal Reserve bank.

Savings bank may borrow and receive on deposit public moneys, federal and state as specified.

postal savings moneys on deposit; and provided, further, savings banks may borrow any amount, in addition to the amounts authorized to be borrowed in this section, for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States, but only in pursuance of a resolution of a majority of its board of directors, duly entered upon their minutes, and without the previous approval of the superintendent of banks, but the fact of such transaction shall forthwith be reported in writing to the superintendent of banks. No excess loan made to any savings bank with or without pledge of assets shall be invalid or illegal as to the lender.

Section 63. Savings banks may issue general certificates of deposit, which are transferable, as in other cases, by indorsement and delivery; may issue, when requested by the depositor, special certificates, acknowledging the deposit by the person therein named of a specified sum of money, and expressly providing on the face of such certificate that the sum so deposited and therein named may be transferred only on the books of the bank; payment thereafter made by the bank to the depositor named in such certificate, or to his assignee named upon the books of the bank, or in case of death, to the legal representative of such person, of the sum for which such special certificate was issued, shall discharge the bank from all further liability on account of the money so paid.

Time certificates of deposit subject to same conditions as other deposits, etc.

All time certificates of deposit, issued by a savings bank, shall be subject to the same limitations and conditions as applied to other deposits, and notice thereof shall be given by the words "Subject to conditions of agreement with depositors" printed on the face of the certificate issued.

Section 64. Each savings bank must prescribe by its by-laws, or by contract with its depositors, the time and conditions on which repayment is to be made to depositors, except as in this act otherwise provided. In all cases the by-laws or contracts shall provide that notice of at least thirty days may, at the option of any such bank, be required to be given of intention to withdraw any deposit or part thereof, but whenever there is any call by depositors for repayment of a greater amount than the bank may have disposable for that purpose, the directors or officers thereof must not make any new loan or investment of the funds of the depositors or of earnings thereof until such excess of call has ceased. The directors of any such bank having no capital stock shall, before the declaration of any dividend, carry at least one-tenth part of the net profits of such bank, for the preceding half year, or for the period covered by said dividend, to its reserve fund. Subject to the provisions of section nineteen of this act, any losses sustained by any such bank may be charged to and paid out of its reserve fund. A larger reserve fund may be created and nothing herein contained shall be construed as prohibitory thereof. The assets of any such bank are a security to its depositors. Any such bank organized without capital stock, may provide by its by-laws for the disposal of any amount in its reserve fund in excess of the amount required by section nineteen of this act and may also provide for final disposal upon the dissolution of the bank of its reserve fund or the balance thereof remaining after payment of any losses of such bank.

Section 65. No loan shall be made, for himself or as agent or partner of another, directly or indirectly, to any director or officer of any savings bank by such bank, or on the endorsement, surety or guaranty of any such officer or director, except that loans may be made to any corporation in which any director or officer of such savings bank may own or hold a minority number of shares

Savings bank to prescribe by its by-laws or by contract, time and conditions of repayment to depositor.

Savings bank without capital stock shall carry at least one-tenth profits to reserve.

Savings bank shall not loan to any director or officer, or upon his endorsement, etc., except loan may be made to corporation in which director or officer holds minority stock.

of stock, upon authorization of or confirmation within thirty days after making such loan, by a majority of all the directors of such bank and the affirmative vote of all directors of such bank present at the meeting authorizing or confirming such loan; provided, however, that such loan

Interested director
not to act on such
loan.

Vote on loan by one
bank to another.

Facts concerning
such loan to be re-
ported to Supt.

Loans to corporations
where stock owned,
etc., by directors,
officers, agents, or
employees—when not
to be reported.

shall in all other respects conform to and comply with all other provisions of this act. Such interested director or officer shall not vote or participate in any manner in the action of the board on such loan; provided, also that by and with the consent of the superintendent of banks previously obtained in writing, all directors may vote upon such a loan made by one bank to another bank where the entire capital stock of one is owned by or held in trust for the stockholders of the other bank and where all or a majority of the board of directors of each of said banks is composed of the same persons. Such authorization or confirmation shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing or confirming such loan, the corporate name of the borrower, the name of each director or officer of such bank who is a member, stockholder, officer or director of the corporation, to which such loan is made, the amount of stock held by him in such borrowing corporations, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks; provided, that any loan made to any corporation of which any director, officer, agent or employee of such savings bank owns not more than five per cent of the paid-in capital of such borrowing corporation nor any loan made to any corporation of which any two or more directors, officers, agents or employees of such savings bank own not more than twenty per cent of the paid-in capital of such borrowing corporation, shall not be re-

ported to the superintendent of banks. No loan may be made to any corporation a majority of the stock of which is owned or controlled by any one or more of the directors or officers, or officers and directors, of such savings bank collectively, except with the previous consent of the superintendent of banks.

When consent of
Supt. to loan re-
quired.

A loan may be made to any agent or employee, other than an officer or director, of any savings bank by such bank upon authorization or confirmation of a majority of all the directors of such savings bank and an affirmative vote of all directors of such savings bank present at the meeting authorizing or confirming such loan; provided, however, that such loan shall in all respects conform to and comply with all other provisions of this act. Such authorization or confirmation shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the name of the borrower, the nature of his employment, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of the security given therefor, and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks; provided, that any loan made to any corporation of which any director, officer, agent or employee of such savings bank owns not more than five per cent of the paid-in capital of such borrowing corporation nor any loan made to any corporation of which any two or more directors, officers, agents or employees of such savings bank own not more than twenty per cent of the paid-in capital of such borrowing corporation, shall not be reported to the superintendent of banks. Any officer or director of any savings bank who knowingly procures a loan from such savings bank contrary to the provisions of this section shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report

Savings bank may
loan to agent or
employee.

Facts concerning
such loan to be re-
ported to Supt.

Loans to corporations
where stock owned,
etc., by directors or
officers, agents or
employees—when not
to be reported.

Violations of
section.

Penalties.

to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the State of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

Loans to banks and
religious corporations.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such savings bank may be members or officers, but in which they have no financial interest.

Loans permitted to
director other than
officer, or to agent
or employee of a
savings bank, on
security of U. S.
bonds or other
U. S. obligations
as specified.

Loans may be made to any director, other than an officer, directly or indirectly, or to any agent or employee of a savings bank on the security of United States bonds, United States treasury certificates, or interest-bearing notes, or obligations of the United States, or those for which the faith and credit of the United States are pledged for repayment of principal or interest, or those issued under authority of the United States, notwithstanding anything in this section contained, and such loans may be made in the usual manner of making loans in which no director of such bank is interested.

[Publishers' note, re Section 65, as amended 1921:

The following are the amendments:

1. Loans may be made by a savings bank to any corporation in which any director or officer thereof may own or hold a minority number of shares, upon confirmation within thirty days after making such loan by a majority of all the directors, and the affirmative vote of all directors present at the meeting authorizing or confirming such loan.

2. A loan made to a corporation, of which any director, officer, agent or employee owns not more than five per cent of the paid-in capital of the borrowing corporation, and a loan made to any corporation of which any two or more directors, officers, agents or employees of the savings bank own not more than twenty per cent. of the paid-in capital of the borrowing corporation, shall not be reported to the superintendent.]

Section 66. No savings bank shall hereafter make any loans to any person, firm, copartnership or corporation to an amount exceeding fifty per centum of the actual paid-up capital stock and surplus of such bank, or in the case of a bank organized without capital stock, to an amount exceeding fifty per centum of the reserve fund of such bank; provided, however, that any savings bank having a paid-up capital and surplus of less than fifty thousand dollars, but not less than twenty-five thousand dollars, may make any such loan on real estate security to an amount not exceeding twenty-five thousand dollars; and provided, further, that any savings bank having a paid-up capital and surplus of less than twenty-five thousand dollars may make any such loan on real estate security to an amount not exceeding its paid-up capital and surplus, if each such loan in all other respects conforms to the provisions of this act. The renewal or extension of any loan heretofore legally made by any savings bank shall not be construed to be a "loan hereafter made" within the meaning of the provisions of this section. The **legality of investments heretofore lawfully made pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section.** For the purposes of this section an endorser or guarantor shall be deemed to be a borrower.

Savings banks not to make loans to any person, etc., exceeding 50% paid-up capital and surplus.

Exceptions to foregoing.

Renewal or extension of loan—when not "loan hereafter made."

Endorser deemed borrower.

Section 67. 1. No savings bank shall loan money except on adequate security of real or personal property, and no such loan shall be made for a period longer than ten years. **No such loan shall be made on unsecured notes; provided, that a savings bank may discount or purchase bankers' acceptances of the kind and character and maturities defined and made eligible for rediscount with a federal reserve bank; provided, also, that such bankers' acceptances are accepted or endorsed without qualification by a bank or trust company, which bank or trust company has a paid-in capital of at least one million**

Savings bank loans—their security and period.

Savings bank may discount or purchase bankers' acceptances, eligible for rediscount with Federal Reserve bank.

Also, bill, or participating interest in bill evidenced by participation cert. requirements.

dollars; and provided, also, that a savings bank may discount or purchase a bill, or a participating interest in a bill, evidenced by a participation certificate issued by a state or national bank in this state, which must comply with the following requirements:

Bill issued by solvent individual, firm or corporation in mercantile or mfg. business in U. S., making statements of condition certified by public accountant.

Form and contents of such statement:

(a) It must be a bill issued by a solvent individual or firm or corporation engaged in mercantile or manufacturing business in the United States that makes statements of its condition duly ascertained and certified to by a public accountant. Copy of such a certified statement shall be on file in the office of the savings bank discounting or purchasing such bill in a file maintained for such purpose. Said statement shall have been issued within the preceding fourteen months and shall be the latest issued by said individual or firm or corporation. Said statement shall consist of a balance sheet showing quick assets, slow assets, permanent or fixed assets, current liabilities and accounts, short term loans, long term loans, capital and surplus. Accompanying said balance sheet shall be a copy of a statement from the borrower or public accountant concerning the following:

- (1) The nature of the business.
- (2) All contingent liabilities such as endorsements or guarantees.
- (3) Particulars respecting any mortgage debts and whether there is any lien on current assets.
- (4) The maximum and minimum liabilities of the individual, firm or corporation during the twelve months previous to the date of audit.

Bill must be issued by individual, firm or corporation meeting specified requirements as to assets and liabilities.

(b) It must be issued by an individual, firm or corporation whose net worth is not less than two times the amount of its outstanding liabilities, including any contingent liabilities arising from the rediscount of bills receivable or other accommodation endorsements, nor less

than three hundred thousand dollars. The quick assets of said individual, firm or corporation, consisting of merchandise, finished, raw, and in the process of manufacture, accounts receivable, bills receivable, bonds or obligations of the government of the United States at the then market value of said bonds or obligations and cash, shall not be less than two times its outstanding quick liabilities including any contingent liabilities arising from the rediscount of bills receivable or other accommodation endorsements, as shown by said statement.

(c) It must have a maturity of not more than six months.

Bill to have maturity of not more than 6 months.

(d) It must have arisen out of actual commercial transactions; that is, be a bill which has been issued or drawn for industrial or commercial purposes or the proceeds of which have been or are to be used for such purposes.

Bill must have arisen out of actual commercial transactions, etc.

No bill shall be eligible for discount or purchase by a savings bank, the proceeds of which have been used or are to be used for any of the following purposes:

Bills not eligible:

(1) For investments of a merely speculative character whether made in goods or otherwise.

(1) For speculative investments, etc.

(2) Must not have been issued for carrying or trading in stocks, bonds or other investment securities, except bonds of the government of the United States, and must not cover merely investments.

(2) For dealing in stocks, bonds or other investment securities, except U. S. bonds; must not cover merely investments.

(3) Must not be a bill of any individual, firm or corporation which has under pledge or hypothecation any of its personal assets.

(3) Must not be bill of individual, etc., having under pledge personal assets.

The word "bill," when used in this section, shall be construed to include notes, drafts, or bills of exchange, and the word "goods" shall be construed to include goods, wares or merchandise.

"Bill" defined.

Savings bank shall have file showing credit of parties to discount paper.

Any savings bank purchasing or discounting such paper shall have in a file maintained for the purpose, letters from banks and merchants or mercantile reports bearing upon the credit and standing of the person, firm, copartnership or corporation whose paper is under discount.

Limitations upon amounts of bills bank may hold.

No savings bank shall at any time acquire or hold, directly or indirectly, by discount or purchase, any such bills of any one person, firm, copartnership or corporation in any amount which shall exceed five per centum of the capital and surplus or reserve of such savings bank, nor shall any savings bank at any time acquire or hold, directly or indirectly, by discount or purchase, an amount of bills, of the character defined and limited by this section, greater than twelve and one-half per centum of the deposits of such bank.

Limitations upon amounts of bankers' acceptances savings bank may acquire.

No savings bank shall at any time acquire or hold, directly or indirectly, by discount or purchase, any such bankers' acceptances from any one acceptor in any amount equal at any time in the aggregate to more than ten per centum of its paid-up capital and surplus or reserve, unless the said acceptance is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance; provided, however, that any savings bank may, irrespective of any such security, acquire and hold acceptances equal to twenty-five per centum of its capital and surplus or reserve, of any one acceptor having a paid-in capital of not less than three million dollars.

Limitations upon combined total amount of bankers' acceptances and bills.

No savings bank shall at any time acquire or hold, directly or indirectly, by discount or purchase, a combined total amount of bankers' acceptances and bills of the character defined and limited by this section, greater than twenty per centum of the deposits of such bank; provided, however, that any savings bank may acquire and hold bankers' acceptances in the amount of two thousand five hundred dollars.

2. No savings bank shall invest or loan an amount greater than fifty per centum of its actual paid-up capital and surplus in or on any one note or bond issue of the class specified in paragraph (f) of subdivision six of section sixty-one of this act, or in or on mortgage participation certificates issued by a mortgage insurance company pursuant to the provisions of chapter eight of title two of part four of division first of the Civil Code, nor more than five per centum of its assets in or on any one issue of bonds or notes or obligations of any other class, except bonds of the United States, or interest-bearing notes or obligations of the United States, or bonds of the State of California, bonds for which the faith and credit of the United States or of the State of California are pledged, or bonds of any county, city and county, city or school district in this state, or bonds of any irrigation district in this state such as are legal for investment by savings banks.

Limitations upon amounts bank may invest or loan on bond issues or securities of specified classes; exceptions.

3. No savings bank shall loan money:

Restrictions upon savings bank loaning money.

(a) On bonds of the character specified in paragraphs (a), (b), (c) and (d) of subdivision five of section sixty-one of this act, or on bonds of the character specified in paragraph (c) of subdivision six of section sixty-one of this act, unless such bonds shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

(b) On bonds or notes or obligations of the character specified in paragraphs (d), (e), (g), (h) and (i) of subdivision six of section sixty-one of this act, when eligible as investments for savings banks pursuant to said sections, unless such bonds or notes shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

(c) On bonds or equipment trust certificates legal for investment by savings banks in the states of New York or Massachussets, unless such bonds or equipment trust

On bonds, bonds and notes, obligations as specified in certain paragraphs in Sec. 61.

On bonds or equipment trust certificates legal for investment in N. Y. or Mass.

certificates shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

On notes or bonds or securities specified in par. (f) subd. six, Sec. 61, or on securities of mortgage insurance company issued under Civil Code.

(d) On notes or bonds of the character specified in paragraph (f) of subdivision six of section sixty-one of this act when certified as legal investments for savings banks under the provisions of section sixty-one a of this act, or on securities issued by a mortgage insurance company pursuant to the provisions of chapter eight of title two of part four of division first of the Civil Code eligible for investment by savings banks, unless such bonds, notes or securities shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

On notes or bonds specified in pars. (a) and (b) subd. six, Sec. 61.

(e) On notes or bonds of the character specified in paragraphs (a) and (b) of subdivision six of section sixty-one of this act when certified as legal investments for savings banks in this state, unless such notes or bonds shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

On personal property.

(f) On personal property unless such personal property shall have a market value at least fifty per centum in excess of the amount loaned thereon; or,

On other bonds, or on capital stock of corporation. Restriction on loan on bank stock.

(g) On other bonds, or on capital stock of any corporation, unless such bonds or stock shall have a market value at least fifty per centum in excess of the amount loaned thereon; provided, however, that no loan shall be made upon the capital stock of any bank unless such bank has been in existence at least two years and has earned and paid a dividend on its capital stock.

Savings banks not to loan on real estate, except it be first lien, and not exceeding 60% of market value. Exception.

4. No savings bank shall make any loan on security of real estate, unless it be a first lien, and in no event to exceed sixty per centum of the market value of any real estate taken as security except for the purpose of facilitating the sale of property owned by such savings bank or except under the conditions specified in section fifty-seven a of this act; provided, that a second lien may be accepted to secure the repayment of a debt previously con-

tracted in good faith; and provided, also, that any savings bank holding a first mortgage or deed of trust on real estate may take or purchase and hold or loan upon another and immediately subsequent mortgage or deed of trust thereon, but all such loans shall not exceed in the aggregate sixty per centum of the market value of the real estate securing the same; provided, further, that a savings bank may loan not to exceed ninety per centum of the face value of a mortgage which constitutes a first lien upon real estate, but in no event shall any such loan exceed ninety per centum of sixty per centum of the market value of the real estate covered by said mortgage or deed of trust.

Cases permitting 2nd
liens and loans not
exceeding 90% of face
value of first lien,
real estate mortgage,
and 90% of 60% of
market value of
realty permitted.

5. No savings bank shall loan to any one borrower on the security of the capital stock of any corporation an amount exceeding ten per centum of the capital stock and surplus of such savings bank; provided, that all loans on the capital stock of any one corporation shall not exceed in the aggregate twenty-five per centum of the capital stock and surplus of such savings bank.

Capital-stock loans
—restrictions upon.

6. No savings bank shall purchase, invest or loan its capital, surplus or the money of its depositors, or any part of either, in mining shares or stock and any president or managing officer who knowingly consents to a violation of any provision of this paragraph shall be guilty of a felony.

Investment of any
capital, surplus or
deposits in mining
shares forbidden.
Violation hereof
felony.

[Publishers' note, re Section 67, as amended 1921:

The following are the amendments of this section:

To Section 67-1 is added the proviso that a savings bank may discount or purchase a participation certificate in a bill, as well as purchase a bill, as before the amendment.

In 1(d) (3), the amount of bankers' or trade acceptances, drafts and bills of exchange which a savings bank may acquire from any one acceptor, shall not exceed at any time in the aggregate more than ten per cent. of its paid-up capital stock and surplus or reserve, unless the savings bank is secured either by at-

tached documents or by some other actual security growing out of the same transaction as the acceptance. Note proviso, also limitation on combined total of acceptances.

In 67-2 the only changes are the reference numbers to correspond to the changes in Section 61.

67-3(a) is amended to conform to the new lettering and numbering of Section 61. The references in the old section to (a), (aa), (b), (c) and (d) of subdivision three of Section 61 are changed to (a), (b), (c) and (d) of subdivision five of Section 61, and (e) of subdivision three is changed to (c) of subdivision six of said section.

67-3(b) is changed by adding notes or obligations, and by changing references to correspond to the lettering in amended Section 61; (f), (g), (i) and (e) of subdivision three of Section 61 are changed to (d), (e) (g), (h) and (i) of subdivision six, Section 61.

67-3(c) has added equipment trust certificates.

67-3(d). (h) of subdivision three becomes (f) of subdivision six, Section 61. There is added to this paragraph the words, "or on securities issued by a mortgage insurance company pursuant to the provisions of chapter eight of title two of part four of division one of the Civil Code."

67-3(e) now provides that no savings bank shall loan "on notes or bonds of the character specified in paragraphs (a) and (b) of subdivision six of Section 61 of this act, when certified as legal investments for savings banks in this State unless such notes or bonds shall have a market value at least fifteen percentum in excess of the amount loaned thereon."

67-3 (f) and (g) of the amended section are the same as (e) and (f) in the old section. Numbers 4, 5 and 6 of the new section are the same as in the old section.]

Amount and character of total reserves of savings bank or savings bank department.

Section 68. Every savings bank or savings department of a bank shall at all times maintain total reserves equivalent to five per centum of the aggregate amount of its deposits, exclusive of United States, postal savings bank, state, county and municipal, and other public money deposits, which are secured as is required by law; at least two and one-half per centum of such deposits shall be maintained as reserves on hand, which shall consist of gold bullion, or any form of money or currency authorized by the laws of the United States, and two and one-half per centum of such deposits may be maintained as reserves on hand, which shall consist of bonds, or interest bearing obligations of the United States, of gold bullion, or any form of money or currency authorized by the laws of the United States or may be main-

May be maintained as reserves on hand, or as reserves on deposit with reserve depositary.

May be maintained as reserves on hand, which shall consist of gold bullion, or any form of money or currency authorized by the laws of the United States or may be main-

tained as reserves on deposit subject to call with any reserve depositary provided for in sections twenty and forty-three of this act; provided, however, that all or any part of the reserves may be deposited, subject to call, with a federal reserve bank in the district in which such bank is located; provided, also, that no savings bank or savings department shall be required to maintain reserves on hand in excess of four hundred thousand dollars, and when such reserves on hand reach that amount, the balance of total reserves necessary to make up the five per centum may be kept as reserves on deposit, subject to call, with any reserve depositary provided for in sections twenty and forty-three of this act.

Savings bank or
dept. not required to
maintain reserves on
hand in excess of
\$400,000. When
reserves on hand
reach that amount
—how and where
balance making up
5% kept.

If any savings bank shall have become a member of a federal reserve bank, it shall comply with the reserve requirements of the federal reserve act and its amendments, and its compliance therewith shall be in lieu of, and shall relieve such savings bank or savings department of a departmental bank from compliance with the provisions of this section.

Reserves required of
bank becoming
member of Federal
Reserve bank.

If any savings bank shall fail to maintain its total reserves in the manner authorized by this section, it shall be subject to the penalty provided for in section twenty *Penalty* of this act for commercial banks.

No new loan shall be made during any deficiency in the total reserves. Deposits with any commercial bank, or commercial department of a bank, on open account, as provided in this section, shall be permitted and shall not be construed as loans. Not more than five per centum of the deposits of any savings bank shall be deposited with any one bank, except with the consent of the superintendent of banks; provided, that any savings bank may deposit with any one bank not more than twenty-five thousand dollars without the permission of the superintendent of banks. Not more than fifteen per centum of the deposits of any savings bank shall be deposited

No new loan while
total reserves de-
ficient.

Consent of Supt.
required for savings
banks deposits of
more than 5%
with any one bank
or 15% with com-
mercial banks.

Proviso.

with all commercial banks, except with the consent of the superintendent of banks. No savings bank or savings department shall receive deposits of other banks other than savings deposits and such deposits shall not be treated or considered as a part of the reserves on deposit of such depositing bank; provided, however, that the sum so deposited shall not exceed thirty per centum of the paid-in capital and surplus of the depositing bank, nor more than fifteen per centum of the paid-in capital and surplus of the depositary bank.

No savings bank or dept. to receive other than savings deposits of other banks; same shall not be treated as part of reserves on deposit of depositing bank. Limitation upon sum so deposited.

[Publishers' note, re Section 68, as amended 1921:

This section has been amended to provide:

- (1) That a savings bank that becomes a member of a Federal Reserve Bank shall comply with the reserve requirements of the Federal Reserve Act in lieu of reserve requirements of the State Act. Its reserve would then be three per cent instead of five as previously, all with the Federal Reserve Bank.
- (2) That any savings bank may deposit with any one bank not more than \$25,000 without permission of the superintendent of banks, even though this sum exceeds five per centum of the bank's deposits.]

Public administrator may allow deposit of decedent to remain in savings bank where deposited, and may deposit estate moneys therein.

Section 68½. Where a decedent, at the time of his or her death, left moneys on deposit with a savings bank, it shall be lawful for any public administrator, who shall become the administrator of the estate, to allow such deposit to remain in said savings bank, and also, it shall be lawful for him to deposit therein to the account of said decedent, any and all moneys of said estate not required for the current expenses of administration.

Effect of such deposit.

Such deposit, whether made by the decedent or a public administrator, shall relieve the public administrator from depositing the same with the county treasurer. Moneys so deposited, whether by the decedent or by a public administrator, may be drawn upon demand without notice, upon the order of said administrator, countersigned by a judge of a superior court, when required for the purpose of administration or otherwise.

Method of withdrawal.

Savings bank to conform to Act.

Section 69. Every savings bank, and the business of every savings department of every other bank, must be conducted under and in accordance with the provisions of this act.

Section 70. Every savings bank shall have power to receive as depositary, or as bailee for safe keeping and storage, Liberty bonds or other bonds or securities issued by the United States government for war purposes or otherwise.

Savings bank may receive as depositary, etc., Liberty bonds or other U. S. bonds.

ARTICLE III.

COMMERCIAL BANKS.

Section 80. No commercial bank shall make any loans, directly or indirectly, to any person, firm, co-partnership or corporation, in an amount which, including therein any extension of credit to such person, firm, copartnership or corporation, by means of letters of credit, or by acceptance of drafts for, or the discount or purchase of the notes, bills of exchange or other obligations of, such person, firm, copartnership or corporation, shall exceed the following percentage of its capital and surplus:

Commercial banks not to loan in amount exceeding following percentages of capital and surplus:

1. Ten per centum without security, except where such capital stock and surplus is not more than twenty-five thousand dollars, in which event an amount not to exceed twenty per centum of such capital stock and surplus may be loaned without security, and where such capital stock and surplus is greater than twenty-five thousand dollars and does not exceed fifty thousand dollars, a sum not exceeding five thousand dollars may be loaned without security. Nothing herein shall prohibit any commercial bank from taking or receiving any kind, character or amount of security whatsoever, either real or personal, for the protection of any loan made under the provisions of this subdivision, but no such loan or any part thereof shall be considered or construed as a secured loan unless the whole thereof is loaned upon security worth at least fifteen per centum more than the amount of such loan; or,

10% without security.
(Note exceptions)

Bank may take any security for protection of loan made under this subd.

When such loan considered secured loan.

(In addition to
amt. loaned under
subd. 1) 15% upon
security worth at
least 15% more than
loan secured.
(Note provisos)

2. Fifteen per centum, in addition to the amount that may be loaned under the provisions of subdivision one of this section, upon security worth at least fifteen per centum more than the amount of such loan so secured; provided, the total amount which can be loaned under subdivisions one and two hereof can not exceed twenty-five per centum in all; provided, however, that a separate note or notes shall be taken for the unsecured loans and a separate note or notes shall be taken for the secured loans, and the secured and unsecured loans shall not be combined in any way within one note, or notes; or,

25% upon security
exceeding loan se-
cured by at least
15%.

3. Twenty-five per centum upon security worth at least fifteen per centum more than the amount of its loans so secured; or,

40%, if loan on
commercial paper
owned by negotiator,
endorsed without
limitation.
Note provisos:

—re combination
loans under subd.
4 and subd. 1, 2, or 3.

—restrictions of Sec.
not applicable to
drafts, etc., with
B/Ls attached, etc.

Bank may accept
drafts, etc., arising
in import or export,
or domestic
shipments.

4. Forty per centum, provided such loans are upon commercial or business paper actually owned by the person negotiating the same to such bank, and are endorsed by such person without limitation; provided, however, that in addition to the amounts permitted to be loaned by subdivisions one, two or three of this section, an amount may be loaned on the securities fixed by subdivision four of this section, which taken with the amounts so permitted by said subdivisions one, two or three will not exceed forty per centum; provided, also that the restrictions under this section shall not apply to bills of exchange or drafts, with bills of lading attached, drawn in good faith against actual existing values.

Any commercial bank may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods provided shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document con-

veying or securing title covering readily marketable staples. No commercial bank shall accept, whether in a foreign or domestic transaction, for any one person, company, firm, or corporation to an amount equal at any time in the aggregate to more than ten per centum of its paid-up and unimpaired capital and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no commercial bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid-up and unimpaired capital and surplus; provided, however, that the superintendent of banks, under such general regulations as he may prescribe, which shall apply to all commercial banks alike regardless of the amount of capital and surplus, may authorize any commercial bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred per centum of its paid-up and unimpaired capital and surplus; provided, further, that the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty per centum of such capital and surplus.

Bank acceptances limited to specified percentages of paid-up unimpaired capital and surplus.

Supt. may under general regulations authorize bank to accept up to 100% of capital and surplus.

Domestic acceptances not to exceed 50%.

Any commercial bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn under regulations to be prescribed by the superintendent of banks by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions; provided, however, that no commercial bank shall accept such drafts or bills of exchange referred to in this paragraph for any one bank to any amount exceeding in the aggregate ten per centum of the paid-up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security; provided, further, that no commercial

Bank may accept sight drafts drawn by foreign banks for purpose of dollar exchange, etc.

Limit in amount of such drafts, etc., bank may accept for any one bank unless with title documents or security.

General limitation upon amount of acceptances.

bank shall accept such drafts or bills in an amount exceeding at any time the aggregate of one-half of its paid-up and unimpaired capital and surplus.

No limitations in previous subds. apply to loans, etc., secured by Liberty bonds, or other U. S. bonds, etc.

None of the limitations or restrictions contained in the previous subdivisions of this section shall apply to loans, discounts or other extensions of credit secured by Liberty bonds or by other bonds or securities issued by the United States government, if the market value of such Liberty bonds or other securities exceeds by ten per centum the amount of any such loan, discount or other extension of credit.

Loans by commercial bank on security for savings-bank loans, deemed secured loans under Sec.

Loans which are made upon security available for loans in a savings bank may be made in a commercial bank upon the same margin of security as is permitted to savings banks anything in this section to the contrary notwithstanding, and all such loans shall be deemed to be secured loans within the meaning of this section.

Total liabilities of any person to commercial bank,—how computed.

In computing the total liabilities of any person to a commercial bank there shall be included all liabilities to the bank of any copartnership or unincorporated association of which he is a member, and any loans made for his benefit or for the benefit of such copartnership or unincorporated association; of any firm, copartnership or unincorporated association to a commercial bank there shall be included all liabilities of its individual members and all loans made for the benefit of such copartnership or unincorporated association or any member thereof; and of any corporation to a commercial bank there shall be included all loans made for the benefit of the corporation.

[Publishers note, re Section 80, as amended 1921:

This section has been amended as follows:

In subdivision three the clause in the old act beginning "Provided, however, * * *," has been omitted.

Subdivision four has been amended in that part of it applying to acceptances. The new provision is identical with the provisions of the Federal Reserve Act authorizing national banks to accept,

save the substitution of the "superintendent of banks" for the "Federal Reserve Board." Hereafter State banks in California will be able to accept on equal terms with national banks.]

Section 81. No loan shall be made by any commercial bank upon the securities of one or more corporations, the payment of which is undertaken, in whole or in part, severally, but not jointly, by two or more individuals, firms, or corporations:

Loans upon corporate securities where payment undertaken, severally, by two or more persons, firms, or corporations.— when forbidden.

(a) If the borrowers or underwriters be obligated absolutely or contingently to purchase the securities, or any of them, collateral to such loan, unless the borrowers or underwriters shall have paid on account of the purchase of such securities an amount in cash, or its equivalent, equal to at least twenty-five per centum of the several amounts for which they remain obligated in completing the purchase of such securities;

(b) If the commercial bank making such loan be liable, directly or indirectly, or contingently, for the repayment of such loan or any part thereof;

(c) If its term, including any renewal thereof by agreement, express or implied, exceed the period of one year;

(d) Or to an amount under any circumstances in excess of twenty-five per centum of the capital and surplus of the commercial bank making such loan.

Section 82. Every commercial bank hereafter organized must have paid up in cash a capital stock of not less than,

(a) Twenty-five thousand dollars if its principal place of business is located in any locality the population of which does not exceed five thousand persons;

Paid-up capital requirements:

Population not over
5,000—\$25,000.

(b) Fifty thousand dollars if its principal place of business is located in any city the population of which is more than five thousand persons but does not exceed twenty-five thousand persons;

5,000 to 25,000
population—\$50,000.

25,000 to 100,000
population—\$100,000.

(c) One hundred thousand dollars if its principal place of business is located in any city the population of which is more than twenty-five thousand persons but does not exceed one hundred thousand persons;

100,000 to 200,000
population—\$200,000

(d) Two hundred thousand dollars if its principal place of business is located in any city the population of which is more than one hundred thousand persons but does not exceed two hundred thousand persons;

Population exceeding
200,000—\$300,000.

(e) Three hundred thousand dollars if its principal place of business is located in any city the population of which is more than two hundred thousand persons.

Forgoing classification not retrospective nor applicable to banks included by annexation, etc., in larger city.

The foregoing classification shall not apply to any commercial bank already in existence which has received its certificate to do a banking business from the superintendent of banks; nor to any bank the location of which shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception; provided, that nothing herein shall be construed to affect the provisions of section nineteen of this act relative to the proportion of capital and surplus to deposits or of section twenty-three of this act relative to the capital stock required of banks doing a departmental business. The provisions of section twenty-three of this act, as to population, shall apply to any bank organized under the provisions of this section; provided, however, that nothing herein contained

Decrease and increase
of capital stock of
excepted banks.

Provisions of Sec.
19 re proportion of
capital and surplus
to deposits, etc.,
not affected by Sec.

Population provisions
applicable to banks
organized under Sec.

shall prevent the superintendent of banks in the exercise of his discretion from granting his license to any bank hereafter organized in a locality which has been included by annexation or consolidation within the limits of a city requiring a larger capitalization with a capital stock paid up in cash equal to that which would have been required for said locality if it had not been included by annexation or consolidation within the limits of a city requiring a larger capitalization; provided, that no bank so licensed shall be permitted to establish any branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township which has been included by annexation or consolidation within the limits of a city requiring a larger capitalization until it shall have the capital required of banks in such city requiring said larger capitalization.

Bank hereafter organized in locality included, by annexation in city requiring larger capitalization —paid-up capital required

Capital of such bank, opening new branch or removing from pre-annexation location.

[Publishers' note, re Section 82, as amended 1921:

This section has been amended by the addition of a paragraph identical in pur-
port to the amendment to Section 23, relative to bank included by annexation in
city requiring larger capitalization, etc.]

Section 83. No loan shall be made for himself or as agent or partner of another, directly or indirectly, to any officer of any commercial bank by such bank or on the endorsement, surety, or guaranty of any such officer; provided, that a loan may be made to a corporation of which any officer of a commercial bank, proposing to make such loan, is a minority stockholder, director, officer, agent or employee. Loans to any director, agent or employee other than an officer, or to any firm, copartnership or corporation of which any director, agent or employee other than an officer is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership or corporation on the endorsement, surety, or guaranty of any such director other than an officer, agent or other employee, can be made by any commercial bank; and provided, further, that a loan may be made or a line of credit may be given to any member of an advisory board or body of a commer-

Provisions governing loans, credit, to officers, directors, agents, etc., of bank; or on endorsement of same, to firms, corporations, etc., with which they are connected.

cial bank, not otherwise an officer of such bank, or a loan may be made to any firm, copartnership or corporation of which any member of such advisory board or body is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership, or corporation on the endorsement, surety, or guaranty of any such member of such advisory board or body upon such conditions as are herein fixed for a loan, directly or indirectly, or a line of credit and the report thereof to any director of such bank. Loans herein authorized can be made only on authorization of or confirmation within thirty days after making such loan, by a majority of all the directors of such bank and the affirmative vote of all directors of such bank present at the meeting authorizing or confirming such loan. Such interested

Provisions governing
above loans.
(Cont'd.)

director shall not vote or participate in any manner in the action of the board on such loan; provided, that by and with the consent of the superintendent of banks previously obtained in writing, all directors may vote upon such a loan made by one bank to another bank where the entire capital stock of one is owned by or held in trust for the stockholders of the other bank and where all or a majority of the board of directors of each of said banks are composed of the same persons. The board of directors of any such bank may fix the total amount of credit that may at any one time during the twelve months next succeeding be given to any director, agent, or other employee, other than an officer, or to any firm, copartnership, or corporation in which any director, agent, or other employee other than an officer is a member, stockholder, director, officer, agent or other employee or to any corporation of which any officer of a commercial bank, proposing to fix such total amount of credit, is a minority stockholder, director, officer, agent or employee, and any or all loans made within or up to the total amount of such authorized credit may at any time during said twelve months be renewed from time

to time, in whole or in part, by the officers of the bank without any further vote or action on the part of the board of directors. Each such authorization shall be entered upon the records or minutes of said bank. No director shall vote or participate in any manner in such action of the board fixing the total amount of credit that may at any one time be given to himself or to any firm, copartnership or corporation in which he is a member, stockholder, director, officer, agent or other employee. The fact of making such loan, the name of the director authorizing such loan, the name of the director, agent or employee, obtaining such loan, or the name of the firm, copartnership or corporation in which such director, agent or employee is interested, or the name of the corporation, of which any officer of a commercial bank is a minority stockholder, director, officer, agent or employee, obtaining such loan, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor, if any, and the fact of final payment when made shall forthwith be reported in writing by the cashier or secretary of such bank to the superintendent of banks; provided, that any loan made to any corporation of which any director, officer, agent or employee of such commercial bank owns not more than five per cent of the paid-in capital of such borrowing corporation nor any loan made to any corporation which any two or more directors, officers, agents or employees of such commercial bank own not more than twenty per cent of the paid-in capital of such borrowing corporation shall not be reported to the superintendent of banks. In case a loan is made to a corporation there shall be reported in the same manner the name of each director and officer of such bank who is a member, stockholder, director, officer or employee of such borrowing corporation and the amount of stock held by him in such borrowing corporation.

Facts concerning
such loans to be re-
ported to Supt.

Loans to corpora-
tions, in which bank
directors, officers,
etc., are interested—
when not to be
reported.

*Provisions of Sec.
as to reports apply
to granting of credit,
etc.* All the provisions of this section relating to reports shall apply to the granting of credit and all loans made under any credit given and payments made thereon shall also be reported immediately after the same is made.

*Report to be made
of loan without pre-
vious authorization.*

in case of a loan made without the previous authorization of the directors, the fact of making such loan shall forthwith be reported and the action of the board of directors, in confirming or refusing to confirm such loan within thirty days thereafter, and the fact of final payment when made shall be reported in the same manner as herein required for loans made under previous authorization.

*Procuring loan con-
trary to section,
felony.*

Any officer, director, agent, or employee of a commercial bank, who knowingly procures a loan from such commercial bank contrary to the provisions of

*Penalty for failure
to report.*

this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the state of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

*Loans to religious
corporations, etc.,—
when section not ap-
plicable thereto.*

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such commercial bank may be members or officers but in which they have no financial interest.

*Loans to corporation,
where majority
stock owned, etc.,
by directors, etc., of
bank—restricted.*

No loan may be made to any corporation, a majority of the stock of which is owned or controlled by any one or more of the directors or officers, or directors and officers of such commercial bank collectively, except with the previous consent of the superintendent of banks.

Loans may be made to any director, other than an officer, directly or indirectly, or to any agent or employee of a commercial bank, on the security of United States bonds, United States treasury certificates, or interest-bearing notes, or obligations of the United States, or those for which the faith and credit of the United States are pledged for repayment of principal or interest, or those issued under authority of the United States, notwithstanding anything in this section contained, and such loans may be made in the usual manner of making loans in which no director of such bank is interested.

Loan may be made to director (not officer) or agent or employee of comm'l bank, on security of U. S. bonds or obligations.

[Publishers' note, re Section 83, as amended 1921:

This section has been amended by adding a proviso that any loan made to any corporation, of which any director, officer, agent, or employee of a commercial bank owns not more than five per centum of the paid-in capital of the borrowing corporation, and any loan made to any corporation of which any two or more directors, officers, agents or employees of such commercial bank own not more than twenty percentum of the paid-in capital of such borrowing corporation, shall not be reported to the superintendent of banks.]

Section 84. No commercial bank shall invest an amount exceeding its paid-up capital and surplus in the lot and building in which the business of the bank is carried on, furniture and fixtures, vaults and safe deposit vaults and boxes necessary or proper to carry on its banking business; and hereafter the authority of a two-thirds vote of all the directors shall be necessary to authorize the purchase of such lot and building or the construction of such building.

Limited investment permitted in bank premises.

Section 85. The superintendent of banks shall have power to limit the amount of funds that may be deposited by any commercial bank with any other commercial bank.

Supt. may limit de-
posits with other
commercial bank.

ARTICLE IV.

TRUST COMPANIES.

Section 90. Any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation to act as ex- What constitutes a
trust company.

cutor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population does not exceed one hundred thousand persons and which has a capital of not less than one hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, and any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, or

As to trust company
in city of population
not over 100,000 with
paid-in capital
not less than
\$100,000 assigned
to trust business.

as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population exceeds one hundred thousand persons and which has a capital of at least two hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, may act, or may be appointed by any court to act, in any such capacity in like manner as an

individual and when so qualified shall be known as a trust company. Any such trust company may, as provided in this act, accept or receive any deposit of money or personal property authorized, directed or permitted to be made with any such corporation by any court or law of this state, and may accept and execute any trust provided for in this act, or permitted by any law of this state, to be taken, accepted or executed by an individual.

Powers conferred on trust company.

Any such trust company, if located in a city the population of which does not exceed one hundred thousand persons must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it and whenever such trust company shall, under the provision of sections ninety-six and ninety-eight of this act, be required to make the first additional deposit of securities with the state treasurer, such trust company must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all court trusts accepted by it, and any such trust company, if located in a city, the population of which exceeds one hundred thousand persons, must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside an additional fifty

Trust company in city of population not over 100,000 to apportion capital and surplus as security for performance of private and court trusts.

When such trust company under Secs. 96 and 98 makes first additional deposit of securities with State Treasurer, it must set aside additional amounts of paid-up capital, as security for performance of private and court trusts.

Such trust company, if located in city of population exceeding 100,000 must segregate capital and surplus assigned to trust business, and apportion at least \$100,000 thereof as security for performance of its private trusts.

Amounts of capital or capital and surplus so apportioned to be treated as separate capital or capital and surplus of each class of business, etc.

thousand dollars of paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all court trusts accepted by it, and any such trust company, if located in a city, the population of which exceeds one hundred thousand persons, must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it; provided, that no such trust company shall at any time be required to apportion and set aside any portion of its surplus as security for the faithful performance and execution of such private trusts, nor shall it be prohibited from so doing; and provided, further, that the respective amounts of capital or capital and surplus so apportioned and set aside shall be treated in all respects as the separate capital or capital and surplus of each respective kind or class of business, as though the same were conducted by separate and distinct corporations, and each shall be kept, held, used and disposed of wholly for the exclusive benefit, protection and security of the respective classes of trust business to which the same were respectively so apportioned

and set aside. In all cases in which it is required that an executor, administrator, guardian of estates, assignee, receiver, depositary or trustee shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath be taken and subscribed or such affidavit be made by the president, vice-president, secretary, manager, trust officer or assistant trust officer, and such officer shall

be liable for the failure of such trust company to perform any of the duties required by law to be performed by an individual acting in the capacity and subject to like penalties; provided, any such appointment as guardian shall apply to the estate only, and not to the person.

Appointment of
guardian applies to
the estate only.

Any trust company upon becoming a member of a federal reserve bank is authorized and empowered:

To continue to administer, execute, enjoy and exercise all court and private trusts as defined in the bank act, powers, rights, privileges, and other fiduciary relations, appointments and business it may have at the time of becoming such trust company member, and also to take, execute and administer all new court and private trusts as defined in said bank act, including the right to the appointment of all fiduciary capacities in which it may be named in wills theretofore and thereafter executed and probated, and other appointments, powers, privileges and business, of every kind and nature, as may be then or thereafter permitted to, but subject to the same requirements and limitations as may be imposed upon any corporation under all of the provisions of the bank act.

Trust company be-
coming member of
Federal Reserve
bank may continue
to administer,
etc.; all fiduciary
rights, privileges,
etc.; also to take,
execute, etc., all
new court and private
trusts, etc., subject
to requirements and
limitations imposed
by Act.

To hold, administer, execute, and in all respects generally handle, manage and dispose of, without charge, restriction, limitation or impairment of any nature, all of its investments, rights, interests, titles to property, contractual, legal and other rights, obligations or liabilities, of every kind or nature, court and private trusts as defined in the bank act, and other powers which it may be then permitted to exercise by law.

General powers of
trust company.

A foreign corporation may be authorized to act in this state as trustee for the following purposes:

Powers of foreign
corporation acting
in State as
trustee.

- (1) To deliver bonds, and receive payment therefor.
- (2) To deliver permanent bonds in exchange for temporary bonds of the same issue.

(3) To deliver refunding bonds in exchange for those of a prior issue or issues.

(4) To register bonds, or to exchange registered bonds for coupon bonds, or coupon bonds for registered bonds.

(5) To pay interest on such bonds, and to take up and cancel coupons representing such interest payments.

(6) To redeem and cancel bonds when called for redemption, or to pay and cancel bonds when due.

(7) The certification of registered bonds for the purpose of exchanging registered bonds for coupon bonds.

(8) To act as trustee under any mortgage, deed of trust, or other instrument securing notes or bonds issued by any corporation.

[Publishers' note, re Section 90, as amended 1921:

This section is amended only in minor particulars, so as to eliminate the present responsibility resting upon the attorney for a trust company, for the activities of such company. The amendment is regarded as vital in its consequences, as involving possibly the subrogation of responsibility of a trust company to one of its officers.]

Court may authorize
trustee or other
fiduciary to deposit
trust fund with trust
company, subject to
court order.

Section 91. Any court having jurisdiction of any executor, administrator, guardian, assignee, receiver, depository or trustee, upon the application of any such officer or trustee, or upon the application of any person having an interest in the estate or property administered by such officer or trustee, after such notice to the other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer or trustee to deposit any moneys then in his hands, or which may come into his hands thereafter, until the further order of said court, with any such trust company, and upon deposit of such money, and its receipt and acceptance by such trust company, the said officer or trustee shall be discharged from further care or responsibility therefor. Such deposit shall be paid out only upon the order of said court.

Public administrator
may deposit estate
funds not required
for current expenses
with such trust
company.

Section 92. Any public administrator may deposit any or all moneys of any estate upon which he is administering, not required for the current expenses of such

administration, with any such trust company authorized to transact business in the county, or city and county in which he is acting as such administrator. Any court having jurisdiction of an estate being administered by a public administrator, may direct such administrator to deposit all or any part of the moneys of said estate with any such trust company. Such deposit shall relieve the public administrator from depositing with the county treasurer the moneys so deposited with such trust company. Moneys so deposited by a public administrator may be drawn, upon the order of such administrator, countersigned by a judge of the superior court, when required for the purposes of administration, or otherwise.

Court may direct such administrator to make deposit with trust company.

How such deposit may be withdrawn.

[Publishers' note, re Section 92 as amended 1921:

Amendment, for the clause, in line four of this section of the old act referring to a trust company "having its principal place of business in the county or city and county" substitutes the phrase "authorized to transact business in the county or city and county."]

Section 93. Any court having jurisdiction of any estate in process of administration, or any other proceeding, may, on application of any person interested therein, or the person who has been selected by said court, or a judge thereof as executor, administrator, guardian, assignee, receiver, depositary or trustee, after such notice to the parties in interest as the court shall direct, or without notice if all parties in interest consent thereto, and a hearing on such application, order any executor, administrator, guardian, assignee, receiver, depositary or trustee so selected or appointed, whether such person has duly qualified or not to deposit with any such trust company, for safe-keeping, such portion or all of the personal assets of said estate as the court shall deem proper, and upon such deposit being made, the court shall by an order of record reduce the bond to be given or theretofore given by such officer or trustee, so as to cover only the estate remaining in the hands of said officer or trustee; and the property so deposited shall thereupon be held by such trust company, under the order and direction of said court.

Court may order fiduciaries to deposit trust funds, etc., with trust company.

Effect of such deposit.

Trust company not required to give bond. Section 94. Such trust company shall not be required to give any bond or security in case of any appointment or deposit of moneys or other personal assets hereinbefore provided for, except as provided in this act, but shall be responsible for all investments which shall be made by it of the funds which may be entrusted to it for investment by such court, and shall be liable to the same extent as an individual, and as hereinafter provided.

Trust company responsible for investments. Section 95. Such trust company shall pay interest upon all moneys so deposited with it at such rate as may be agreed upon at the time of its acceptance of any such deposit, or as shall be provided by the order of court and agreed to by such trust company.

Trust company, in city of population not exceeding 100,000 to make deposits with State Treasurer to secure performance of its trusts. Section 96. Any such trust company, if its principal place of business is situated in a city the population of which does not exceed one hundred thousand persons, before accepting any such appointment or deposit, shall deposit with the state treasurer, as herein provided, at least fifty thousand dollars as security for the faithful performance and execution of all court trusts accepted by it, and shall also deposit with the state treasurer at least fifty thousand dollars as security for the faithful performance and execution of all private trusts accepted by it; and whenever any such trust company shall under the provisions of section ninety-eight of this act be required to make the first additional deposit of securities with the state treasurer such trust company must also deposit with the state treasurer an additional fifty thousand dollars as security for the faithful performance and execution of all private trusts accepted by it; and any

As to making first additional deposit, under Sec. 98.

Trust company, in city of population exceeding 100,000, to make deposits with State Treasurer to secure performance of its trusts. trust company if its principal place of business is situated in a city the population of which exceeds one hundred thousand persons, before accepting any such appointment or deposit, shall deposit with the state treasurer, as herein provided, at least one hundred thousand dollars, as security for the faithful performance and execution of

all court trusts accepted by it, and shall also deposit with the state treasurer at least one hundred thousand dollars as security for the faithful performance and execution of all private trusts accepted by it. **Any such deposit may be made either in lawful money of the United States, or in securities of either or any of the following classes:**

Deposit to consist of money or following classes of securities:

(a) **Bonds issued by the United States or by this state or by any county, city and county, city or school district of this state, or bonds of any irrigation district such as are legal for investment by savings banks;**

(a) Bonds issued by U. S. or by State, or specified subdivisions of State.

(b) **Bonds for the payment of which the faith and credit of the United States or of this state are pledged;**

(b) Bonds for payment of which credit of U. S. or of State is pledged.

(c) **Notes or bonds secured by mortgage or deed of trust constituting a first lien on improved and productive real estate in the State of California; such improved real estate being worth at least double the amount of such lien;**

(c) Notes or bonds secured by mortgage on improved Cal. realty, etc.

(d) **Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of Chapter VIII of Title II of Part IV of division first of the Civil Code; provided, that such notes or bonds shall constitute, and such mortgage participation certificates shall evidence the ownership of, or participation in, notes or bonds which constitute, a first lien on improved and productive real estate in the State of California, such improved real estate being worth at least double the amount of such lien.**

(d) Notes or bonds secured by mortgage or deed of trust, payment of which guaranteed as specified.

Such money or securities shall be first approved by the superintendent of banks and, upon his written order, deposited with the state treasurer for the respective purposes herein specified, and said treasurer shall give his receipt therefor, and thereafter, subject to the provisions

Such money or securities to be first approved by Supt.

State Treasurer to hold deposits separately, for benefit of beneficiaries, etc. of this act, shall hold such deposits of money or securities separately, each for the sole benefit of the beneficiaries of the class of trust business, for the security and protection of which the same was deposited, and said treasurer shall give his receipt therefor and the state shall be responsible for the custody and safe return of any money or securities so deposited. Said securities or money so deposited may with the approval of the superintendent of banks, be withdrawn or exchanged from time to time for other like securities, or lawful money, receivable as

Securities may, with approval of Supt., be withdrawn or exchanged.

Trust company to receive interest and dividends on securities deposited.

Said securities and money subject to sale, transfer, etc., only on court order.

When trust company having capital and surplus of \$200,000 or more apportioned as security for performance of court trusts may be permitted by Supt. to mortgage its business premises to State Treasurer, as part of deposit.

of the class of trust business, for the security and protection of which the same was deposited, and said treasurer shall give his receipt therefor and the state shall be responsible for the custody and safe return of any money or securities so deposited. Said securities or money shall be subject to sale and transfer, and to the disposal of the proceeds by said state treasurer, only on the order of a court of competent jurisdiction and for the benefit respectively of the beneficiaries of that class of trust business for the security and protection of which the same were deposited.

Section 97. Any such trust company, having a capital and surplus of two hundred thousand dollars or more apportioned and set aside as security for the faithful performance and execution of all court trusts accepted by it, as provided in this act, and which is wholly or in part invested in the lot and building in which its business is carried on, may be permitted by the superintendent of banks to mortgage such lot and building to the state treasurer for such sum, up to its full market value, as the superintendent of banks may determine, and such mortgage may be deposited with said treasurer, and when so deposited it shall be included in the amount of securities herein required to be deposited with said treasurer as security for the faithful performance of all such court trusts.

Section 98. Whenever any trust company, the principal place of business of which is located in a city the population of which does not exceed one hundred thousand persons, receives from court trusts accepted by it, trust funds, as herein defined, to the amount of five hundred thousand dollars, it shall forthwith notify in writing the superintendent of banks of such fact, and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and whenever any trust company receives from court trusts such funds to the amount of one million dollars it shall further notify in writing the superintendent of banks of such fact and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and for each additional five hundred thousand dollars of such trust funds thereafter received by any trust company from court trusts a similar notification in writing shall forthwith be given to the superintendent of banks, and a further deposit in the amount of twenty-five thousand dollars of such money or securities, or of securities provided for in section ninety-seven of this act likewise approved, shall be made, within thirty days thereafter, by such trust company with said state treasurer, until five hundred thousand dollars of such securities have been so deposited. The treasurer shall give his receipt for any money or securities so deposited and each and all of such deposits of money or securities, shall be held by said state treasurer for the sole benefit of the beneficiaries of the class of business for the security and protection of which same were deposited. The state shall be responsible for the custody and safe return of any money or securities so deposited with said state treasurer. The term "trust

Trust company in city of population not exceeding 100,000 receiving from court trusts trust funds, to notify Supt, and to deposit additional security with State Treasurer, to be held for benefit of the beneficiaries.

State to be responsible for such deposits.

"Trust funds" defined.

Trust company failing to comply with Sec. to forfeit \$100 a day

Trust company may withdraw from State Treasurer securities in excess of requirements of Act.

Validity of acts or proceedings by trust company not affected by neglect or failure of trust company etc., to comply with Act, etc.

funds" when used in this section shall be deemed to mean and shall mean personal property and cash, whether received with the original trust property or as rent, income or proceeds thereof, or otherwise, in connection with the trust, and shall not be deemed to include and shall not include real property. Any trust company failing to comply with the provisions of this section shall forfeit to the State of California one hundred dollars a day for each day during which such failure or default shall continue. Upon making a request in writing to the superintendent of banks, any such trust company shall be entitled to withdraw from the state treasurer, from time to time, a sufficient amount of such securities so that at all times the amount of such securities so deposited shall conform to the requirements of this act, and so that at no time shall such trust company be required to have on deposit with the state treasurer an amount of securities in excess of the requirements of this act. Upon receiving such request in writing, and satisfactory proof of the facts warranting such withdrawal, it shall be the duty of the superintendent of banks to forthwith deliver to the state treasurer a written order directing the withdrawal of said securities so as to conform with the provisions of this section, and it shall be the duty of the state treasurer to comply with such written order. The validity or legality of any act or proceeding done or taken by any such trust company, relating to or in connection with the administration of any such trusts, shall not be affected or impaired by the neglect or failure of such trust company, or of any officer or employee thereof, to comply with any of the provisions of this act, but all such acts and proceedings done or taken prior to the revocation of its certificate of authority to do such business by the superintendent of banks, under the provisions of this act, or the revocation by any court or judge thereof of the appointment, order or decree theretofore entered in such

trust matter shall be as valid and effective for all purposes as if any such neglect or failure had not occurred.

Section 99. When any part of the securities so deposited with the state treasurer consists of notes or bonds secured by mortgage or deed of trust, it shall be accompanied by a registrar of titles' certificates as to the condition of the title if the notes or bonds are secured by mortgages covering property which has been brought under the operation of the land title law, commonly called the Torrens title law, or a policy of mortgage insurance, or a complete abstract of title or an unlimited certificate of title or a policy of title insurance prepared or issued by a person, company or corporation designated or approved by the superintendent of banks and authorized by law or otherwise found by the superintendent of banks to be competent to issue such evidence of title, which shall be examined and approved by or under the direction of said superintendent of banks. The fees for an examination of such evidence of title by council to be paid by the trust company making the deposit shall not exceed twenty dollars for each title examined, and the fee for each appraiser not exceeding two, shall not exceed five dollars for each mortgage or deed of trust.

Requirements when part of deposit consists of notes, bonds or participation certificates secured by mortgage, etc.

Abstracts of title and insurance policies to be examined and approved by Supt.

Fees.

(Section 100. Repealed 1913.)

Section 101. For the purposes of this act, all trusts permitted to be accepted or executed by any such trust company, under any provision of this act are hereby classified and defined as either:

Classification of trusts.

- (a) Court trusts; or
- (b) Private trusts.

A court trust is one in which any such trust company acts under appointment, order or decree of any court, as executor, administrator, guardian, assignee, receiver, depository or trustee, or in which it receives on deposit

"Court trust" defined.

from a public administrator, under any provision of this act, or from any executor, administrator, guardian, assignee, receiver, depositary or trustee, under any order or decree of any court, money or property.

"Private trust"
defined.

How private trust
may be subjected
to provisions of
Act relating
to court trusts.

Any other trust is a private trust; provided, that the creator of any private trust of which a trust company shall be made, or at any time come to be, the trustee, may, at the time of the creation of such trust or the creator of any such private trust, or his successors in interest, and the beneficiaries thereof may, at any time, by their joint consent, direct that such trust shall be subject to and entitled to the benefit of all of the provisions of this act relating to court trusts and thereafter such trust shall for all the purposes of this act be deemed to be a court trust and wherever in this act the words "court trust" are used they shall be deemed to include private trusts which are subject to supervision except in so far as any of the provisions of this act relating to court trusts may, by their nature, be inapplicable to such private trust. Such direction shall be in writing addressed to the trustee and a copy thereof, certified by the trustee, delivered to the superintendent of banks.

Inspection and super-
vision by Supt.
covers court trusts,
also private trusts
when subjected to
Act.

In case such direction shall be made after the acceptance of the trust, the trustee shall have the right to resign as such and a new trustee shall be appointed as provided in the trust instrument or by law. The inspection and supervision of the superintendent of banks shall extend only to court trusts as herein defined and to private trusts subjected to the provisions of this act relating to court trusts as above provided; except, that the superintendent of banks, his attorneys, examiners or other assistants may, in the examination of the bank, inspect and inquire into any private trust or trusts administered by such bank.

Private trusts, ex-
cept as in Sec. pro-
vided, not subject to
supervision of Supt.

Private trusts, except as in this section provided, shall not be subject to the inspection or supervision of the

superintendent of banks, his attorneys, examiners or other assistants.

In making the reports to the superintendent of banks required by this act, every trust company shall, in addition to the other facts to be reported by it, furnish only a list and brief description of the court trusts and private trusts, which are subject to supervision, held by it, the source of appointment thereto, the authority by which the appointment or deposit was made, and the amount of real or personal property held by such trust company by virtue thereof.

Nothing in this act contained shall make it unlawful for any person or corporation not subject to the supervision of the superintendent of banks to engage in the business of receiving and holding in escrow money or its equivalent pending investment in real estate or securities for or on account of his or its principal, or of acting as trustee under deeds of trust given solely for the purpose of securing obligations for the repayment of money, other than corporation bonds.

Trust company, reporting to Supt., to furnish specified information as to its Court trusts and private trusts subject to supervision.

When person or corporation, not a trust company, may hold money in escrow or act as trustee.

[Publishers' note, re Section 101, as amended 1921:
Section 101 has been amended with respect to private trusts, providing that the superintendent of banks, his attorneys, examiners and other assistants, may, in the examination of the bank, inquire into any private trust or trusts administered by such bank.]

Section 102. Any corporation which desires to withdraw from and discontinue doing a trust business shall furnish to the superintendent of banks satisfactory evidence of its release and discharge from all the obligations and trusts hereinbefore provided for, and thereupon the superintendent of banks shall revoke his certificate of authority to do a trust business theretofore issued to such corporation, and the state treasurer shall return to said corporation all the securities deposited by such corporation and shall cancel any mortgage made by such corporation to said state treasurer as a part of such securities, and thereafter such corporation shall not be permitted to use and shall not use the word "trust" in its corporate name or in connection with its business.

Upon corporation desiring to discontinue trust business, showing discharge from all obligations and trusts. Supt. shall revoke certificate of authority to do trust business, etc.

Private trusts
confidential.

Section 103. Any trust company exercising the powers and performing the duties provided for in this act, shall, except as herein otherwise provided, keep inviolate all communications and writings made to or by said trustee touching the existence, condition, management and administration of any private trust confided to it; and no creditor or stockholder of any such trust company shall be entitled to disclosure or knowledge of any such communication or writing; provided, however, that the president, vice-president, manager, trust officer, secretary or regularly employed attorney of any such trust company shall be entitled to knowledge of any such communication or writing; and provided further, that in any suit or proceeding touching the existence, condition, management or administration of any such trust, the court wherein the same is pending may require disclosure of any such communication or writing.

Who entitled to
knowledge of writ-
ings, etc.

(Section 104. Repealed 1913.)

Investment of capi-
tal, surplus and
trust funds by trust
company.

Section 105. Every trust company shall, except as otherwise provided by law, invest its capital and surplus and any trust funds received by it in connection with its trust business, in accordance with the laws relative to the investment or loan of funds deposited with savings banks, unless a specific agreement to the contrary is made between the trust company and the party creating the trust, or unless it is otherwise ordered by the court, in connection with any court trust.

Trust company, to
do departmental
business also, must
have capital specified
by Sec. 23.

Section 106. Any such trust company desiring to do, or doing, a commercial banking business or a savings bank business, or both, in addition to its trust business shall have actually paid up, in cash, the amount of capital provided in section twenty-three of this act.

Requirements for
title insurance com-
pany authorized to do
trust business.

Any title insurance company authorized by its articles of incorporation to do, or doing a trust business, in addition to its title insurance business, shall comply with all

the requirements of any law governing trust companies, and shall have a capital stock actually paid in, in cash, of not less than two hundred thousand dollars, and in addition thereto, the capital stock required by law for doing a title insurance business. Such capital for each such department or class of business shall be increased from time to time in the same manner and to the same extent as though each such department or class of business was conducted by a separate bank, trust company or title insurance company, instead of as separate departments or classes of business. Any trust company and any title insurance company doing a departmental business as above provided shall comply with the provisions of this act governing each of such departments and with the provisions of any law governing each such class of business as to its deposits, reserve, surplus, investments and loans.

Section 107. Any corporation doing a departmental business as a title insurance company and as a trust company, shall, as to its trust department, be subject to the supervision and inspection of the superintendent of banks, and as to its trust department must make all reports to the superintendent of banks required to be made by trust companies by the provisions of this act, and as to its trust department such corporation shall also be subject to, and shall have the benefit of all other provisions and requirements of this act applicable to trust companies, and shall also be subject to and shall have the benefit of all of the banking laws and rules and regulations of the banking department of this state applicable to trust companies. The proportionate part of the state banking fund provided for by section one hundred and twenty-three of this act, that shall be payable by such corporation, shall be based on the amount of capital and surplus of such corporation apportioned to its trust department.

Trust company and title insurance company doing departmental business to comply with departmental provisions of Act, etc.

Corporation doing departmental business as Title Ins. Co. and Trust Co.—Provisions governing.

Proportionate part of State banking fund payable by such corporation, etc.

ARTICLE V.
STATE BANKING DEPARTMENT.

State Banking Department created.
Superintendent's appointment, tenure, salary, oath and bond.

Section 120. There is hereby created a state banking department. The chief officer of such department shall be the superintendent thereof, and be known as the superintendent of banks. He shall be appointed by the governor, and shall hold office at the pleasure of the governor. He shall not, either directly or indirectly, be interested in any commercial bank, savings bank or trust company, or as an individual banker. He shall receive an annual salary of ten thousand dollars, to be paid monthly out of the state treasury on a warrant of the controller. He shall, within fifteen days from the time of notice of his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state, and execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two or more sureties to be approved by the governor of the state, conditioned for the faithful discharge of the duties of his office.

Superintendent to employ assistants:
Their qualification, duties and compensation.

Section 121. The superintendent of banks shall employ a chief deputy, attorney and such examiners and other assistants as he may need to discharge in a proper manner the duties imposed upon him by law, none of which examiners or assistants or attorney shall be interested in any bank in this state as director, stockholder, officer or employee, and they shall perform such duties as he shall assign to them. He shall fix the compensation of the chief deputy, attorney, examiners and other assistants, which compensation shall be paid monthly on his certificate and on the warrant of the controller out of the state treasury. The chief deputy shall within fifteen days from the time of his appointment take and subscribe to the constitutional oath of office and file the same in

Oath and qualification of chief deputy.

the office of the secretary of state. No person shall be appointed a chief deputy who has not had at least three years' active banking experience, either as an executive officer or employee of some bank in this state. In case of the absence or inability to act, or vacancy in the office of the superintendent of banks for thirty consecutive days, the chief deputy shall execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two sureties to be approved by the controller and treasurer of the state, conditioned for the faithful discharge of the duties of the superintendent while such deputy acts as superintendent, and upon filing such bond such deputy shall have all the power and duties of superintendent of banks, until the inability of the superintendent shall be removed, or until a new superintendent of banks shall have been appointed by the governor. No superintendent of banks, chief deputy, or bank examiner, shall be or shall become indebted, directly or indirectly, either as borrower, endorser, surety, or guarantor, to any bank under his supervision or subject to his examination.

During absence or
inability of Super-
intendent, chief
deputy to act, upon
giving bond.

Superintendent,
chief deputy or
examiner not to be
obligated to any
bank.

Section 122. The superintendent of banks shall have his principal office in the city of San Francisco, and may also have suitable rooms in the city of Los Angeles, wherein to conduct the business of the state banking department. The superintendent shall, from time to time, obtain the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of such business; the expense of which shall be paid out of the state treasury on the certificate of the superintendent and the warrant of the controller.

Offices of Superin-
tendent in San Fran-
cisco and Los Angeles.

Section 123. A fund is hereby created to be known as the state banking fund, and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, ex-

State banking fund
created, out of which
expenses of banking
department to be
paid.

Each bank to pay aminers and other assistants, traveling expenses, furnishing annually its pro-rata share of \$110,000. ing of rooms and rent. Each bank shall pay annually its share of one hundred and ten thousand dollars, to be determined by the proportion which the capital and surplus which shall include all reserve and contingent funds, of any incorporated bank or the surplus, reserve and contingent funds of any bank organized without a capital stock bear to the capital, surplus, reserve and contingent funds in the aggregate of all such banks receiving certificates of authorization from the superintendent of banks, as shown by the last report of such bank to the

Supt. may, at discretion, collect less sum, if same sufficient to pay expenses.

superintendent of banks; provided, that the superintendent of banks may, in any fiscal year and in the exercise of his discretion, collect from each bank a less sum to be determined by the proportion established in this section, if such less sum be sufficient to pay all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, examiners and other assistants, traveling expenses, furnishing of rooms and rent.

Control and disposition of State banking fund.

All moneys collected or received by the superintendent of banks, under and by virtue of the provisions of this act, shall be by him delivered to the treasurer of the state, who shall deposit the same to the credit of said banking fund, and the unexpended balance of all moneys heretofore paid into the state treasury by any of the bank commissioners or the superintendent of banks, shall be

Supt. may retain control of \$2,000, to be used as revolving fund for Dept., etc.

retained and become a part of said fund; provided, however, that the superintendent shall have authority to retain in his possession and under his control the sum of two thousand dollars to be used by him as a revolving fund for the benefit of the state banking department until the end of the fiscal year, at which time he shall make full settlement with the treasurer of the state. If any

Penalty for non-payment by bank of pro-rata of expense.

such bank shall fail to pay such charges as are herein

required, the superintendent shall forthwith cancel the certificate of said bank.

Section 124. Every bank and the trust department of every title insurance company doing a trust business, shall be subject to the inspection of the superintendent of banks. The superintendent of banks, the chief deputy, or some competent person or persons to be appointed by the superintendent of banks, to be known as examiners, shall visit and examine every bank at least once each fiscal year. On every such examination inquiries shall be made by him as to the condition and resources of the bank, the mode of conducting and managing its affairs, the action of its directors, the investment and disposition of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held and whether the requirements of its articles of incorporation and the law have been complied with in the administration of its affairs, and as to such other matters as the superintendent may prescribe. Whenever, in the judgment of the superintendent of banks, the condition of any bank renders it necessary or expedient to make an extra examination or to devote any extraordinary attention to its affairs the superintendent of banks shall have authority to make any and all necessary extra examinations and to devote any necessary extra attention to the conduct of its affairs; and such bank shall pay for all such extra services rendered by the superintendent of banks at a price to be fixed by the superintendent of banks but not to exceed twenty dollars per day for the examination of the principal office of such bank and twenty dollars a day for the examination of each branch office of each bank. The superintendent of banks shall also have power to examine, or cause to be examined, every agency located in this state of any foreign bank or banking corporation, for the purpose of ascertaining whether it has complied with the laws of this state, and for such other purposes and as to such

Every bank, and
trust dept. of title
insurance company
doing trust business,
to be subject to in-
spection of Supt.

Supt. or other ex-
aminers as specified,
to examine every bank
at least once a year.

What such examina-
tion shall cover.

Supt. may make
extra examinations
for which bank shall
pay as specified.

Supt. may examine
California agency
of foreign bank.

other matters as the superintendent may prescribe. The

On examination
Supt. may administer
oath and compel at-
tendance of wit-
nesses. superintendent, chief deputy, and every such examiner shall have the power to administer an oath to any person

whose testimony he may require on the examination of any bank, or on the examination of any agency of any foreign bank or banking corporation, and to compel appearance and attendance of any such person for the purpose of any such examination. When a bank shall have

Examiner to report
doubtful securities
to Supt. been examined by any examiner, and he finds securities therein which are, in his judgment, of doubtful value,

he shall report the same to the superintendent of banks, who thereupon shall be authorized to employ appraisers at the expense of such bank to appraise said securities, at a compensation to be fixed by the superintendent of banks.

Supt. shall provide
auditor, at bank's
expense, when bank
requests. The superintendent of banks shall, whenever required to do so by any bank, provide an auditor to make an audit of the affairs of such bank. The compensation for making such audit shall be paid by the

Supt. not to examine
private trust or title
insurance business,
of corporation doing
trust business. bank direct to the person making the audit. Nothing herein shall be deemed to authorize or require the superintendent of banks to inspect or supervise the private trust business or title insurance business of any corporation doing a trust business.

Oath of examiners. Section 125. Every examiner appointed by the superintendent of banks shall, before entering upon the discharge of his duties, take the constitutional oath of office and cause the same to be filed in the office of the secretary of state. No such examiner shall be appointed receiver of any bank whose books, papers and affairs he shall have examined pursuant to his appointment.

No examiner to be
appointed receiver
of bank examined
by him. Section 126. If the chief deputy or any examiner shall have knowledge of the insolvency or unsafe condition of any bank mentioned in this act, and that it is unsafe or inexpedient to permit said bank to continue business, and shall neglect to forthwith report such fact

in writing over his signature to the superintendent of banks, he shall be guilty of a felony.

Section 127. When any number of persons desire to organize a corporation to conduct any one or more or all of the businesses mentioned in divisions (a), (b), and (c) of section two of this act or to circulate stock subscription lists for any such proposed corporation the previous written consent of the superintendent of banks to such proposed organization must be obtained. No bank shall transact any business in this state without the written approval of the superintendent of banks, and without his written certificate stating that it has complied with the provisions of this act, and all the requirements of law, and that it is authorized to transact, within this state, the business specified therein; which certificate may be withheld by the superintendent of banks whenever he has reason to believe that the bank is being formed for any other than the legitimate objects contemplated by this act, or whenever he has reason to believe that the public convenience and advantage will not be promoted by the opening of such bank, or whenever he has reason to believe that the corporate name assumed by such bank resembles, so closely as to be likely to cause confusion, the name of any other bank previously formed under the laws of this state. Before issuing such certificate the superintendent of banks shall examine, or cause an examination to be made, in order to ascertain whether the requisite capital of such bank has been paid up in cash or the requisite reserve or surplus fund has been accumulated. The superintendent of banks shall not authorize such bank to commence business until it appears from such examination, or other evidence satisfactory to him, that the requisite capital has been, in good faith, subscribed and paid in, in cash, or that the requisite surplus or reserve fund has been accumulated or paid in, in cash, and

Written consent of
Supt. prerequisite
to organizing a
bank.

Bank must have a
certificate from Supt.
before transacting
business.

When certificate
may be withheld
by Supt.

Certificate not to be
issued before ex-
amination and com-
pliance with require-
ments as to capital
and surplus.

Fees payable. until said bank shall have paid a fee of fifty dollars for each department to be operated by said bank.

When articles filed with Secy. of State and application made for certificate, Supt. to ascertain fitness of persons named as stockholders, etc.

[Publishers' note, re Section 127: See Appendix, Sec. 1278 C. C. P.]

Section 128. When the certified copy of articles of incorporation of any bank shall have been filed with the secretary of state, and application made for the issuance of a certificate to do business as a bank, the superintendent of banks, provided he has not withheld granting his certificate for any of the reasons set forth in section one hundred twenty-seven hereof, shall ascertain, from the best sources of information at his command, whether the character and general fitness of the persons named as stockholders are such as to command the confidence of the community in which such bank is proposed to be located, and, if so satisfied, he shall within sixty days after such application has been made to him, issue, under his hand and official seal, the certificate of authorization required by this act. The superintendent of banks shall file a duplicate of such certificate in his own office.

Departmental bank must make and publish separate financial reports of each department.

Section 129. Every bank doing a departmental business shall render to the superintendent of banks for each department conducted by it, a separate report showing in detail as required by section one hundred thirty of this act, the actual financial condition of such department and shall at the time of furnishing said report separately publish the statement for each department as provided in section one hundred thirty-two of this act.

Verified reports to be made by bank whenever required by Superintendent.

What such reports must show.

Section 130. Every bank, organized under the laws of this state, shall, whenever required by the superintendent of banks, make a report in writing to him, verified by the oath of its president and its secretary or cashier, or two principal officers. Such report shall show the actual financial condition of the bank making the report, at the close of any past day designated by the superintendent, and shall specify the following:

1. The amount of its capital stock and the number of shares into which it is divided. What such bank reports must show—cont'd.
2. The names of the directors and the number of shares of stock held by each.
3. The total amount of capital actually paid in, in cash, and the total amount of surplus, reserve and any other funds.
4. The total amount due the depositors.
5. The total amount and character of any other liabilities it may have.
6. The amount at which the lot and building occupied by the bank for the transaction of its regular business stands debited on its books; also the market value of all other real estate held, whether acquired in settlement of loans or otherwise, the original cost to the bank, the date when acquired, the amount at which it stands debited on the bank books, in what counties situated, and in what name the title is vested, if not in the name of the bank itself.
7. The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also specifying the name of the person in whose name the property is held in trust or as security, in case it is held in any name other than that of the bank and the instrument creating the security does not itself disclose the name of the bank.
8. The amount invested in bonds, designating the name and amount of each particular kind.
9. The amount loaned on stocks and bonds, designating each particular class and the amount thereof.
10. The amount of money loaned on other securities, with a particular designation of each class and the amount loaned on each.

What such bank
reports must
show (Cont'd.)

11. The amount and kind of money on hand or deposited in any other bank or place, with the name of the place where deposited and the amount in each place.

12. Any other property held, or any amount of money loaned, deposited, invested or placed, not otherwise herein enumerated, and the place where situate and the value of said property, and the amount so loaned, deposited or placed.

13. The date on which examination of the bank was last made by its board of directors and the date on which report of such examination was filed, as required by section one hundred thirty-nine of this act.

14. The outstanding and unpaid amounts of any loans made by the bank, which under the provisions of either section sixty-five or eighty-three of this act are required to be reported to the superintendent of banks.

15. Any overdrafts and any loans, investments, acts or omissions violative of or not in conformity with any provision of this act which may be specifically called for.

California branch of
foreign bank to ren-
der verified report to
Supt.

Every foreign corporation transacting the business of banking in this state shall make the report herein required as far as such report may relate to the affairs of such corporation in this state, and every foreign corporation must particularly render the report required by subdivisions three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, and fifteen of this section. Such report shall be made in writing and verified by the oath of one of its duly authorized officers or managers residing in this state. The oaths of the officers and the statements above required shall state that they and each of them have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true. Any wilful false statement in the premises shall be perjury and shall be punished as such.

Section 130a. In addition to the information obtained from the report required by the provisions of section one hundred thirty of this act, the superintendent of banks shall also have the power to require any bank to furnish a special report in writing, verified as required by section one hundred thirty of this act, whenever in his judgment such special report is necessary to inform him fully of the actual financial condition and affairs of such bank. Any wilful false statement in the premises shall be perjury and shall be punished as such.

Supt. may require bank to furnish additional report.

Section 131. The superintendent of banks shall call for the reports specified by section one hundred thirty of this act at least three times each year. The "past day designated by the superintendent" of banks under the provisions of section one hundred thirty of this act shall for at least three times be the day designated by the comptroller of currency of the United States for reports of national banking associations.

Supt. to call for reports at least three times a year.

Section 132. At the time of furnishing such report to the superintendent of banks, every bank shall also publish a condensed statement of its financial condition, at least once, in some newspaper of general circulation, published in the city or town where its principal place of business is located, and, if no paper is published in such town, then in some newspaper of general circulation in the county where its principal place of business is located. Such published statement shall show the total amount of loans, the total amount of overdrafts, the total amount invested in bonds and other securities, the total amount due from banks, the total amount of checks and other cash items, the total amount of cash on hand, capital paid in, surplus funds; undivided profits, less expenses and taxes paid; due to other banks and bankers, due to trust companies and savings banks; individual deposits subject to checks; demand certificates of deposit; time deposits; certified checks; cashier's checks outstand-

Bank shall publish condensed statement of financial condition at time of furnishing above report.

What published statement shall show.

ing; and such other items as will show the actual financial condition of the bank making the report.

Supt. finding capital impaired shall require bank to make good the deficiency within 60 days.

Section 133. Whenever it shall appear from the report of any bank, or the superintendent of banks shall have reason to believe that the capital of any bank is impaired or reduced below the amount required by law, it shall be the duty of the superintendent of banks and he shall have the power to examine said bank and ascertain the facts, and in case he finds such impairment or reduction of capital, he shall require such bank to make good the deficiency so appearing within sixty days after the date of such requisition. The directors of every such bank, upon which such requisition shall have been made, shall levy an assessment upon the stock thereof to repair such deficiency, and shall cause notice of such requisition to be given to each stockholder of the bank and of the amount of the assessment which he must pay for the purpose of making good such deficiency, by a written or printed notice mailed to such stockholder at his last known address or served personally upon him. If any stockholder

Stock assessments to make good impaired capital.

shall refuse or neglect to pay the assessment specified in such notice within thirty days from the date of mailing or serving such notice as aforesaid, the directors of such

Procedure for levying and collecting assessment on bank stock.

bank shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving a previous notice of such sale for ten days in a newspaper of general circulation published in the county where the principal place of business of such bank is located, and a copy of such notice of sale shall also be served on the owner of such stock by being served personally on him or by mailing to his last known address ten days before the day fixed for such sale; or such stock may be sold at private sale and without such public notice; provided, however, that before making such private sale thereof an offer in writing shall first be obtained and a copy thereof served upon the owner of record of the stock

Directors may sell assessed stock at private sale.

sought to be sold, either personally or by mailing a copy of such offer to his last known address, and if, after service of such offer, such owner shall still refuse or neglect to pay such assessment within two weeks from the time of the service of such offer, the said directors may accept such offer and sell such stock to the person making such offer, or to any other person or persons making a larger offer than the amount named in the offer submitted to the stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the superintendent of banks in his determination and requisition as to said assessment, nor for less than the amount of said assessment so called for and the expense of sale. Out of the avails of the stock so sold, the directors shall pay the amount of assessment levied thereon, and the necessary costs of sale, and the balance, if any, shall be paid to the person or persons whose stock has thus been sold. A sale of stock as herein provided shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void, and a new certificate shall be issued by the bank to the purchaser thereof.

Method of making such private sale.

Application of proceeds of sale.

Effect of sale, upon stock sold.

Section 134. If it shall appear to the superintendent of banks that any bank has violated or failed to comply with the provisions of its articles of incorporation, or any law of this state, he may, by an order under his hand and official seal, which seal must be adopted by him, addressed to such bank, direct such bank to discontinue such violation and to comply with the law; or, if it shall appear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, he may, in like manner direct the discontinuance of any such unsafe or injurious practices. Such order shall require such bank to show cause, before the superintendent of banks, at a time and place to be fixed by him, why said order should not be observed. If upon such hearing it shall ap-

Supt. may order bank to discontinue violations of its articles or State law, etc.

Such order shall require bank to show cause why order shall not be made final.

pear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, or is violating or failing to comply with the provisions of its articles of incorporation, or any law of this state, then the superintendent of banks shall make such order final, and such bank shall immediately comply with such order made by the superintendent of banks. Such bank shall have ten days after any such order is made final in which suit may be commenced to restrain enforcement of such order, and unless such action be so commenced and enforcement of said order be enjoined within ten days, by the court in which such suit is brought, then such bank shall comply with such order.

If such order is made final, bank has 10 days to secure injunction.

Supt. may call meeting of stockholders of bank.

Section 135. Whenever the superintendent of banks shall deem it expedient he may call a meeting of the stockholders of any bank organized under the laws of this state, by a personal notice of such meeting for fifteen days previous thereto. All necessary expense incurred in the serving of such notice shall be borne by the bank whose stockholders are required to convene.

Involuntary dissolution.

Section 135a. If the capital of any bank shall be impaired, or if any bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of such bank, or if such bank shall violate the provisions of its articles of incorporation, or any law of this state, or if such bank shall suspend payment of its obligations, or if such bank shall conduct its business in an unsafe or unauthorized manner, or if from any examination or report provided for by this act the superintendent of banks shall conclude that such bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, an action to procure a judgment dissolving such corporation may be maintained by the superintendent of banks.

Action by Supt. to dissolve bank having impaired capital, or refusing to submit to examination, or violating law of State, etc.

Section 136. Whenever it shall appear to the superintendent of banks that any bank has violated the provisions of its articles of incorporation or any law of this state, or is conducting its business in an unsafe or unauthorized manner, or if the capital of any bank is impaired, or if any bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of any such bank or if any bank shall suspend payment of its obligations, or if from any examination or report provided for by this act the superintendent of banks shall have reason to conclude that such bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any bank shall neglect or refuse to observe any order of the superintendent of banks specified in sections one hundred thirty-three or one hundred thirty-four of this act, the superintendent of banks may forthwith take possession of the property and business of such bank and retain such possession until such bank shall resume business, or its affairs be finally liquidated as herein provided. On taking possession of the property and business of any such bank the superintendent of banks shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals, holding or in possession of any assets of such bank. No bank, trust company, association or individual knowing of such taking possession by the superintendent of banks, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the bank of whose property and business the superintendent of banks shall have taken possession as aforesaid. Such bank may, with the consent of the superintendent of banks, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of any such bank

Supt. may take pos-
session of business
and property of such
bank until it resumes
business or its affairs
be finally liquidated.

Procedure to be fol-
lowed by Supt. in
conserving assets
and liquidating af-
fairs of such bank.

Bank may resume
business with consent
of Supt.

the superintendent of banks shall have authority to collect moneys due to such bank and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The superintendent of banks shall collect all debts due and claims belonging to it, and upon the order of the superior court may sell or compound any bad or

By order of court, Supt. may sell bad or doubtful debts, or sue thereon; may sell bank's real or personal property and enforce stockholders' liability. the superintendent of banks shall have authority to collect moneys due to such bank and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The superintendent of banks shall collect all debts due and claims belonging to it, and upon the order of the superior court may sell or compound any bad or doubtful debts. If a purchaser for any bad or doubtful debts can not be obtained and it appears improbable that recovery thereon can be had and that the costs of actions to enforce collection of the same would probably be lost, the court may direct that suits thereon need not be brought. On like order he may sell any real or personal property of such bank on such terms as the court shall direct; and may, if necessary to pay the debts of such bank, enforce the constitutional individual liability of stockholders by action to be brought within three years after the date of his taking possession of the affairs of such bank. The superintendent of banks shall determine the necessity of such action and the amount necessary to recover from the stockholders to fully pay all liabilities of such bank. Such action may be in equity and against all stockholders upon whom service of process in the State of California can be had, and the court may therein determine and provide for any equities as between the stockholders including the proportions of each stockholder to any surplus of money or assets that may remain after the payment of all liabilities and the expenses of liquidation. The superintendent of banks may also maintain an action against any stockholder residing out of the state or upon whom service of process can not be had within the state, in any court of the United States or of any state or country. Any judgment so obtained by the superintendent of banks against such or any of such stockholders which is of doubtful value may be compromised and compounded by the superintendent of banks on such terms and conditions as the superior court may direct or authorize. The

superintendent of banks shall file a notice of pendency of action in the county recorder's office of the county where such action is brought. At any time prior to the trial of any such action, any creditor may serve upon the superintendent of banks and file with the court wherein such action is pending, notice that he elects to maintain an action against the stockholders or any of them, in his individual capacity and thereupon the amount sued for in such action shall be reduced accordingly and such creditor shall not be entitled to share in the proceeds resulting from such action brought by the superintendent of banks. For the purpose of executing and performing any of the powers and duties hereby conferred upon him, the superintendent of banks may, in the name of the delinquent bank or in his own name, prosecute and defend any and all suits and other legal proceedings and may, in the name of the delinquent bank or in his own name as trustee execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary and proper to effectuate any sale of real or personal property or sale or compromise or compound authorized by order of the court as herein provided; and any deed or other instrument, executed pursuant to the authority hereby given, shall be valid and effectual for all purposes, as though the same had been executed by the officers of the delinquent bank by authority of its board of directors. In case any of the real property so sold is located in a county other than the county in which the application to the court for leave to sell the same is made, the superintendent of banks shall cause a certified copy of the order authorizing or ratifying such sale to be filed in the office of the recorder of the county in which the said real property is located. The superintendent of banks may, under his hand and official seal, appoint one or more special deputy superintendents of banks, as agent or agents, with the powers specified in the certificate of appointment hereinafter mentioned, to assist

Supt. shall file with county recorder notice of pendency of such action.

Creditor may in individual capacity maintain action against stockholders.

Supt. may in name of delinquent bank or in his own name prosecute and defend suits, etc., execute all instruments necessary to effectuate sale of property or compromise by order of court, etc.

him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the superintendent of banks, and a certified copy in the office of the clerk of the county in which the principal office of such bank is located.

*Supt. may delegate
duties to deputy.*

The superintendent of banks may from time to time, by a certificate of appointment under his hand and official seal, specifying the powers conferred, authorize a special deputy superintendent to perform such duties connected with such liquidation and distribution as the superintendent of banks may deem proper. Such certificate of appointment shall be filed in the office of the superintendent of banks and a certified copy in the office of the clerk of the county in which the principal office of such bank is located. The superintendent of banks may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such bank, and for that purpose may retain such of the officers or employees of such bank as he may deem necessary. The superintendent of banks shall require from a special deputy superintendent and from such assistants such security for the faithful discharge of their duties as he may deem proper.

*Supt. may employ
counsel and expert
assistance necessary
in liquidation.*

*Notice by Supt.
to creditors to
present claims
against bank.*

The superintendent of banks shall cause notice to be given by advertisement, in such newspapers as he may direct, weekly for three consecutive months, calling on all persons who may have claims against such bank to present the same to the superintendent of banks, and make legal proof thereof at a place and within a time, not earlier than the last day of publication, to be therein specified. The superintendent of banks shall mail a similar notice to all persons whose names appear as creditors upon the books of the bank. If the superintendent of banks doubts the justice and validity of any claim, he may reject the same, and serve notice of such rejection upon the claimant, either by mail or personally.

An affidavit of the service of such notice, which shall be prima facie evidence thereof shall be filed with the superintendent of banks. Any action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the superintendent of banks equitably applicable thereto. Upon taking possession of the property and assets of any bank, the superintendent of banks shall make an inventory of the assets of such bank in duplicate, one to be filed in the office of the superintendent of banks, and one with the papers in said proceeding in the office of the clerk of the county in which the principal office of such bank is located; upon the expiration of the time fixed for the presentation of claims the superintendent of banks shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the superintendent of banks, and one with the papers in said proceeding in the office of the clerk of the county in which the principal office of such bank is located. Thereafter he shall make and file in said offices as above provided at least fifteen days before each application to the court for leave to declare a dividend a supplemental list of the claims presented since the last preceding list was filed, including and specifying such claims as have been rejected by him, and in any event he shall make and file as above provided such a list at least once every six months after the filing of the original list, as long as he shall remain in possession of the property and business of any such bank. Such inventory and list of claims shall be open at all reasonable times to inspection. The compensation of the special deputy superintendents, counsel and other employees and assistants, and all expenses of supervision and liquidation, shall be fixed by the superintendent of banks and

Action upon rejected
claim—when must
be brought.

Supt. to make and
file inventory of
assets.

Supt. to file with
county clerk list of
claims presented,
specifying claims
rejected.

Supplemental lists
of claims.

Compensation of
special deputies and
other employees and
all expenses of sup-
ervision—how to be
fixed, paid and re-
ported.

shall upon the certificate of the superintendent of banks be paid out of the funds of such bank in the hands of the superintendent of banks. All such expenses must be reported by the superintendent of banks to the superior court of the county where the principal place of business of such bank is located and settled by such court upon notice to such

Moneys collected—
how deposited.

bank. The moneys collected by the superintendent of banks shall be from time to time deposited in one or more state banks of deposit, savings banks or trust companies, and, in case of the suspension or insolvency of

Such deposits
preferred.

the depositary, such deposit shall be preferred before all other deposits. At any time after the expiration of the date fixed for the presentation of claims the superior court may by order authorize the superintendent of banks to declare out of the funds remaining in his hands after the payment of expenses one or more dividends, and after the expiration of one year from the first pub-

Declaration of
dividends—how
made.

lication of notice to creditors he may declare a final dividend, such dividends to be paid to such persons, and in such amounts, and upon such notice, as may be directed by the superior court of the county in which the principal office of such bank is located. Objections to any

Objections by inter-
ested party to claims
not rejected by
Supt. to be heard
and disposed of by
court or referee.

claim not rejected by the superintendent of banks may be made by any party interested by filing a copy of such objections with the superintendent of banks, who shall present the same to the superior court at the time of the next application to declare a dividend. The court to which such application is made shall thereupon dispose of said objections or may order a reference for that purpose, and should the objections to any claim be sustained by the court or by the referee, such claim shall not be

Court to make pro-
vision for unproved
or unclaimed
deposits.

allowed by the superintendent of banks until the claimant shall have established his claim by the judgment of a court of competent jurisdiction. The court must make proper provision for unproved or unclaimed deposits.

Should any bank at the time the superintendent of banks takes possession of its property and business, have in its possession, as bailee for safekeeping and storage, any jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers or other valuable personal property or should it have rented any vaults, safes or safe deposit boxes or any portion thereof for the storage of property of any kind, the superintendent of banks may at any time thereafter cause to be mailed to the person claiming to be or appearing upon its books to be the owner of such property, or the person in whose name the safe, vault or box stands, a notice in writing in a securely closed, postpaid registered, letter directed to such person at his post-office address as recorded upon its books, notifying such person to remove, within a period fixed by said notice and not less than sixty days from the date thereof, all such personal property and upon the date fixed by said notice, the contract, if any, between such person and bank for the storage of said property or for the use of the said safe, vault or box shall cease and determine, and the amount of the unearned rent or charges, if any, paid by such person shall become a debt of the bank to said person. If the property be not removed within the time fixed by the notice, the superintendent of banks may make such disposition of said property as the superior court, upon application thereto, shall direct. And the superintendent of banks may cause any safe, vault or box to be opened in his presence or in the presence of one of the special deputy superintendents of banks, and of a notary public not an officer or in the employ of the bank or of the superintendent of banks, and the contents thereof, if any, to be sealed up by such notary public in a package upon which such notary public shall distinctly mark the name and address of the person in whose name such safe, vault or box stands upon the books of the bank and shall attach thereto a list and

Bailors of property
in delinquent bank
to be notified by
Supt. to remove
property.

If such property not
removed within time
fixed by notice, Supt.
to dispose of same
as court may direct.

Supt. may cause any
safe, vault or box to
be opened and its
contents disposed of.

description of the property therein; and the package so sealed and addressed, together with the list and description, may be kept by the superintendent of banks in one of the general safes or boxes of the bank until delivered to the person whose name it bears, or until otherwise disposed of as directed by the court.

Bank deeming itself aggrieved may en-join proceedings within ten days after Supt. takes possession.

Whenever any such bank of whose property and business the superintendent of banks has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after such taking possession, apply to the superior court in the county in which the principal office of such bank is located to enjoin further proceedings; and said court, after citing the superintendent of banks to show cause why further proceedings should not be enjoined, and

Hearing to be had and judgment entered therein.

hearing the allegations and proofs of the parties and determining the facts may, upon the merits, dismiss such application or enjoin the superintendent of banks from further proceedings, and direct him to surrender such

Provisions concern-ing appeal from judgment.

business and property to such bank. An appeal as above provided shall operate as a stay of the judgment of the superior court, and no bond need be given if the appeal be taken by the superintendent of banks; but if the appeal be taken by such bank, a bond shall be given, as required by section nine hundred forty-three of the Code

After payment of allowed claims, etc., Supt. to call meet-ing of stockholders to determine whether Supt. shall continue liquidation or agent be elected for that purpose.

of Civil Procedure. Whenever the superintendent of banks shall have paid to each and every depositor and creditor of such bank whose claim or claims as such creditor or depositor shall have been duly proved and allowed, the full amount of such claims, and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the superintendent of banks shall call a meeting of the stockholders of such bank giving notice thereof for thirty days in one or more newspapers published in the county where the principal office of such bank is located. At such meeting the stockholders shall determine whether the superintendent of banks shall be

Manner of voting at such meeting.

continued as liquidator and shall wind up the affairs of such bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination.

In case it is determined to continue the liquidation ^{Dissolution.} under the superintendent of banks, he shall complete the liquidation of the affairs of such bank, and after paying the expenses thereof, shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the superior court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the superintendent of banks a bond to the people of the state in such amount, with such sureties and in such form as shall be approved by the superintendent of banks, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the superintendent of banks shall transfer and deliver to such agent or agents all the undivided and uncollected or other assets of such bank then remaining in his hands; and upon such transfer and delivery, the said superintendent of banks shall be discharged from any and all further liability to such bank and its creditors. Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said bank as is herein provided in the case of distribution by the superintendent of banks, except that the expenses thereof shall be subject to the direction and control of a court of record of competent jurisdiction.

Supt. shall transfer assets to agent, who shall execute bond.

Agent to convert such assets into cash and account for and distribute property.

In case of the death, removal or refusal to act of any such agent or agents, the stockholders, on the same notice, to be given by the superintendent of banks upon proof of such death, removal or refusal to act being filed with him, and by the same vote hereinbefore provided, may elect a successor, who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the superintendent of banks for six months after the order for final distribution shall be by him deposited with the state treasurer in the same manner and subject to the same disposition as provided for in section one thousand two hundred thirty-four of the Code of Civil Procedure. The superintendent of banks may pay over the moneys so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same. In cases of doubt or conflicting claims he may require an order of the superior court authorizing and directing the payment thereof.

[Publishers' note: See Chapter 496, Statutes of 1917, in Appendix.]

Bank ceasing business shall immediately liquidate.

Section 136a. Any bank which has ceased to do a banking business whether through voluntary action on its part or through expiration of its corporate existence, shall immediately liquidate its affairs and any unclaimed deposits or dividends shall be paid into the state treasury in the manner and for the purposes provided in section one hundred thirty-six of this act within six months after the date such bank ceased to conduct a banking business, and in case the superintendent of banks shall have reason to conclude that the liquidation of such bank is not being safely or expeditiously conducted, he may take possession of the property of such bank and liquidate its affairs in the same manner as provided in section one

If liquidation unsafely conducted
Supt. may take pos-
session and liquidate.

Bank deeming itself aggrieved by inter-
vention of Supt.
may apply for in-
junction.

hundred thirty-six of this act. Whenever any bank of whose property the superintendent of banks has taken possession as aforesaid, deems itself aggrieved thereby,

it may within the time and in like manner and effect as provided in section one hundred thirty-six of this act apply to the superior court to enjoin further proceedings.

Section 136b. In any action or proceeding brought under any provision of this act, exclusive original jurisdiction shall be vested in the superior court of the county in which is located the principal place of business of the bank affected thereby, and all proceedings relating to the same matter, under any provision of this act, including proceedings for liquidation of the affairs of any such bank, shall be filed with and treated as a part of the record in such original proceedings, and all papers relating to any such action or proceeding, including the copy of certificate of appointment of any special deputy and the inventories required to be filed in the matter of any such liquidation, shall be filed with and made a part of the record of such original proceeding, without the payment of any additional fees therefor, and in any such action no damage may be awarded, but the action otherwise shall be tried and determined according to the provisions of the Code of Civil Procedure.

Jurisdiction vested in superior court of county where principal place of business of bank is located.

Section 137. 1. Any bank shall have the right, on application of the stockholders or members to apply to the superior court of the county wherein its principal place of business is situated, to dissolve said bank in the manner provided for in title six, part three of the Code of Civil Procedure.

Voluntary dissolution may be had under provisions of Code of Civil Procedure.

2. At the expiration of four months after the settlement of the final account of the receiver of any bank appointed prior to July 1, 1909, any dividends due depositors, or other creditors, or stockholders of such bank and remaining unpaid or uncalled for and in the hands of such receiver may be paid by him into the treasury of the county in which such bank is situated which money shall be held in the treasury of said county, and at the same time it shall be the duty of such receiver to furnish to the

Payment to county treasurer of specified funds by receiver appointed prior to July 1, 1909.

county treasury of said county a list of names of all depositors or other persons to whom such money belongs or who are entitled thereto and thereupon such receiver shall be entitled to his discharge.

Said funds to be paid out on court order.

3. The moneys referred to in subdivision two of this section shall be paid out on the order of the court appointing such receiver.

When such funds escheat to State.

4. All moneys paid under subdivision two of this section, uncalled for within five years after being paid in, shall by operation of law, and without action had, escheat to the state. All moneys held by any county treasurer under subdivision two of this section, when such moneys have escheated to the state as hereinbefore provided, shall be paid by the county treasurer into the state treasury, and thereafter only be drawn out in such manner as may be provided for by law for the estates of deceased persons escheated to this state.

Investment of such funds.

5. The state board of control must invest such moneys in the same manner that the state school land fund is invested as provided by law. But any claimant shall be entitled to recover as herein provided only the principal so paid into the state treasury.

Penalty for bank failing to make report as required by Sec. 130 or Sec. 130a—to forfeit \$100 per day, etc.

Section 138. If any bank shall fail to make any report required by the provisions of section one hundred thirty or one hundred thirty a of this act, within ten days from the day designated for the making thereof by the superintendent of banks, or to include therein any matter required by the provisions of either of said sections, it shall forfeit to the people of the state the sum of one hundred dollars for each day that any such report shall be so delayed or withheld by the failure or neglect of such bank.

In event of such failure Supt. may make examination at bank's expense.

In the event of the failure of any such bank to make any such report required from it, the superintendent of banks may, in his discretion, immediately cause the

books, papers and affairs of such bank to be examined at the expense of such bank.

Section 139. It shall be the duty of the board of directors of every bank to examine fully, or to cause a committee of at least three of its members, none of whom shall be an officer of the bank, to examine fully into the books, papers and affairs of the bank of which they are directors, and particularly into the loans and discounts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any given, in connection therewith, and into such other matters as the superintendent of banks may require; such examination to be made at least once a year, but no such subsequent yearly examinations shall be made within three months of the next preceding examination. Such directors shall have power to employ such assistance in making such examinations as they may deem necessary.

Directors to examine bank affairs, loans, discounts, etc.

Within thirty days after the completion of such examination, a report in writing thereof, sworn to by the directors making the same, shall be made by the board of directors of such bank, and placed on file with the records of said bank, and shall be subject to examination by the superintendent of banks.

Directors may employ assistance in making examination.

Sworn report of directors to be made and filed with records of bank.

Such report shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination, may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and if not, a statement of that fact, and its actual value

What such report shall contain.

as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank.

If directors fail to make such examination or report, Supt. may make extra examination at bank's expense.

If the directors of such bank shall fail to make such examination or fail to cause it to be made, or shall fail to file such report of such examination in the manner and within the time specified, the superintendent of banks shall have authority to make or cause to be made an extra examination of such bank, at the expense of such bank.

Whenever the board of directors of any bank may determine by resolution, duly entered in its minutes, that a special examination shall be made or caused to be made by the superintendent of banks in lieu of the examination herein required to be made by the board of directors of such bank, a certified copy of such resolution shall be transmitted to the superintendent of banks, whereupon it shall be the duty of the superintendent of banks to make or cause to be made a special examination of the affairs of such bank in lieu of the examination of such bank by the board of directors thereof. Such special examination shall be made at such time as the superintendent of banks may determine but in any event such examination shall be made within sixty days after the receipt by the superintendent of banks of the resolution hereinbefore referred to. The cost of making such examination shall be a charge against the bank for which such examination is made.

Upon the completion of such examination the superintendent of banks shall cause a report thereof in writing to be prepared and delivered to the board of directors of such bank at such time as may be fixed by the superintendent of banks, but not later than thirty days after the completion of such examination.

The superintendent of banks may accept in lieu of the directors' examination herein provided for any year any examination, made, during such year, by the Federal Reserve Bank of San Francisco, of any bank which is a member of the Federal Reserve Bank of San Francisco.

When examination by Federal Reserve Bank of San Francisco accepted.

[Publishers' note, re Section 139, as amended 1921:

This section has been amended by adding the following: "The superintendent of banks may accept in lieu of the directors' examination herein provided, for any year, any examination made during such year by the Federal Reserve Bank of San Francisco of any bank which is a member of the Federal Reserve Bank."

Section 140. The superintendent of banks shall report during the month of October of each year, to the governor, for submission to the next ensuing session of the legislature:

Supt. shall make annual report to Governor.

1. A summary of the state and condition of every bank required to report to him, and from which reports have been received the preceding year, with an abstract of the whole amount of capital returned by them, the whole amount of their debts and liabilities, and the total amount of means and resources, specifying the amount of specie held by them at the time of the last report to him, and such other information in relation to such banks as, in his judgment, may be useful.

Such annual report shall contain:

Summary of general conditions;

2. A statement of all banks authorized by him to do business during the previous year, with their names and locations and dates of incorporation, and particularly designating such as have commenced business during the year.

Statement of new banks;

3. A statement of the banks whose business has been closed during the year.

Statement of closed banks;

4. Any amendments to the banking law, which, in his judgment, may be desirable.

Desirable amendments to Bank Act;

5. The names and compensation of all persons employed by him, and the whole amount of the receipts and expenses of the department during the year.

Names and compensation of employees;

Data concerning
banks in liquidation.

6. The names of banks placed in his hands in process of liquidation, and the amount of dividends paid thereon.

Number of copies of
report printed.

Such report, and the usual number of copies for the use of the legislature, shall be printed and in readiness for distribution by the state printer, and one thousand copies shall be printed for the use of the department, the expense of which shall be charged among the general expenses of the department.

Weekly bulletin to
be publicly posted in
Supt.'s office.

Section 141. 1. The superintendent of banks shall keep in his office, in a place accessible to the general public, a bulletin board upon which he shall cause to be posted at noon on Friday of each week a detailed statement, signed by him or, in case of his absence from San Francisco or inability to act, by the deputy superintendent in charge, giving the following items of general information with regard to the work of the department since the preceding statement:

Contents of bulletin:

Applications filed,
etc.

(a) The name of every bank that has filed in the banking department an application for authorization to commence business, its location and the date of filing such application.

New banks author-
ized.

(b) The name and location of every bank authorized by the superintendent of banks to commence business, its capital, surplus, and the date of authorization.

Certificates refused.

(c) The name of every bank to which a certificate of authorization has been refused by the superintendent of banks, and the date of notice of refusal.

New employees, etc.

(d) The name and residence of every person appointed by the superintendent of banks as a deputy, examiner or employee in the banking department, the title of the office to which appointed, the compensation paid, and the date of appointment.

(e) The date on which a call for a report by banks was issued by the superintendent of banks, and the day designated as the day with reference to which such report should be made. Data concerning called reports.

(f) The name and location of every bank whose creditors or depositors have been paid in full by the superintendent of banks and a meeting of whose stockholders shall have been called, together with date of notice of meeting and date of meeting. Concerning banks whose creditors are paid and whose stockholders have called meeting, etc.

(g) The name and location of every bank subject to the banking law whose affairs and business shall have been finally liquidated, or in course of liquidation. Banks liquidated or liquidating.

(h) The name and location of every bank which has applied for approval of a change of name, and the name proposed. Proposed changes in name.

2. Every such bulletin, after having been posted as aforesaid for one week, shall be placed on a file for such statements, to be kept in the office of the superintendent of banks. All such statements shall be public documents, and at all reasonable times shall be open to public inspection during usual banking hours. Bulletins after being posted to be kept in office.

Section 142. None of the records of the state banking department shall be deemed to be public documents nor shall any of such records be open to the inspection of the public. Every official report made by the superintendent of banks and every report duly verified of an examination made, shall be *prima facie* evidence of the facts therein stated, for all purposes in any action or proceeding wherein the superintendent of banks is a party. Records of State Banking Dept. not deemed public documents, or open to public inspection. Supt.'s reports, etc., to be *prima facie* evidence in court, etc.

(Section 143. Repealed 1913.)

Section 144. Whenever by the terms of this act a Penalties and forfeitures imposed by penalty or forfeiture is imposed, the same shall be recovered Act—how recovered. in an action brought at the request of the super-

intendent of banks by the attorney general, in the name of the people of the state, and the sum recovered shall be paid into the state banking fund and used in payment of claims against the said fund. Any fine or pecuniary penalty, which may be incurred by any bank on

When fine or penalty
may be compromised
with Supt.

account of the violation of any provision of this act, may be compromised and a less amount than that prescribed by this act accepted by the superintendent of banks at any time prior to the institution of action to recover the same.

Powers, duties, etc.,
of corporations doing
business under laws
of this State,
abridged, enlarged,
etc., to conform to
Act.

Section 145. The powers, privileges, duties and restrictions conferred and imposed upon any corporation or individual existing and doing business under the laws of this state are hereby abridged, enlarged or modified as each particular case may require to conform to the provisions of this act, notwithstanding anything to the contrary in their respective articles of incorporation or charters. All the provisions of this act shall apply with equal force and effect to all corporations which are now doing or which may hereafter do a banking business in this state, except where express exception or exemption may be made herein, and to such other persons, associations, copartnerships or corporations who shall, by violating any of its provisions, become subject to the penalties provided herein.

Legality of prior
bank investments or
title not affected by
Act; but non-comply-
ing investments made
prior to July 1, 1909,
to be gradually
changed and written
off to conform to
Act, etc.

The legality of investments heretofore made, or title to property heretofore acquired or conveyed through transactions heretofore had by any bank pursuant to any provision of law in force when such investments were made or transactions had, shall not be affected by the provisions of this act, except that any such investments made prior to July 1, 1909, when not complying with the provisions hereof, shall be changed to conform hereto; but such change shall be made gradually and in such manner as to prevent loss or embarrassment in the business of such bank, or unnecessary loss or injury to the borrowers on such security; pro-

vided, that the legality of any investments heretofore lawfully made, pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section.

Section 146. All acts, or parts of acts, in conflict with All conflicting acts,
etc., repealed. this act are hereby repealed.

Section 147. This act shall take effect July first, 1909.

[Publishers' general note:

Sections amended in effect June 3, 1921.]

Statutes of 1909:

Chapter 76, Approved March 1. In effect July 1, 1909.

Amended by Statutes of 1911:

Chapter 11, Approved Feb. 6. In effect Feb. 6, 1911.

Chapter 488, Approved Apr. 21. In effect June 20, 1911.

Chapter 494, Approved Apr. 21. In effect June 20, 1911.

Chapter 495, Approved Apr. 21. In effect June 20, 1911.

Amended by Statutes of 1911 (Special Session):

Chapter 2, Approved Dec. 18. In effect Feb. 16, 1912.

Chapter 24, Approved Dec. 24. In effect Feb. 22, 1912.

Amended by Statutes of 1913:

Chapter 104, Approved May 6. In effect Aug. 10, 1913.

Chapter 192, Approved May 31. In effect Aug. 10, 1913.

Amended by Statutes of 1915:

Chapter 140, Approved Apr. 28. In effect Aug. 7, 1915.

Chapter 608, Approved June 3. In effect Aug. 7, 1915.

Chapter 611, Approved June 3. In effect Aug. 7, 1915.

Chapter 612, Approved June 3. In effect Aug. 7, 1915.

Amended by Statutes of 1917:

Chapter 500, Approved May 17. In effect July 27, 1917.

Chapter 501, Approved May 17. In effect July 27, 1917.

Chapter 504, Approved May 17. In effect July 27, 1917.

Amended by Statutes of 1919:

Chapter 140, Approved May 3. In effect July 22, 1919.

Chapter 337, Approved May 15. In effect July 22, 1919.

Amended by Statutes of 1921:

Chapter 780, Approved June 3. In effect June 3, 1921.

Chapter 174, Approved May 18. In effect July 29, 1921.



INDEX TO APPENDIX

Section 1273 of the Code of Civil Procedure.

Section 1273 of the Code of Civil Procedure, referred to in Sec. 15 of the Bank Act—relating to procedure by which unclaimed deposits escheat to the State.

Section 1454 of the Code of Civil Procedure

Section 1454 of the Code of Civil Procedure, granting to certain surviving heirs of a deceased depositor the privilege of withdrawing a sum not greater than \$1,000 if that sum is aggregate of all decedent's deposits—said section being referred to in the note to Sec. 16 repealed 1919.

Section 1278 of the Code of Civil Procedure.

Section 1278 of the Code of Civil Procedure, relating to change of name of a banking corporation,—referred to in publishers' note following Sec. 127 of the Bank Act.

Extracts from Chapter VIII of Title II of Part IV of Division First of the Civil Code.

Extracts from Chapter VIII of Title II of Part IV of Division First of the Civil Code, referred to in Sections 61, 96 and 99 of the Bank Act, relating to mortgage insurance and mortgage-participation certificates.

Penal Code Sections 561, 561a, 561b, 561c, 561d and 563a and 563b.

Penal Code Sections 561, 561a, 561b, 561c, 561d and 563a and 563b, relating to frauds in the management of banks.

General Laws, Statutes of 1921, Chapter 772. Approved June 23, 1921.

General Laws, Chapter 772, Statutes 1921, being "An act defining corporations for the purpose of engaging in international or foreign banking or other international or foreign financial operations or in banking or other financial operations in a dependency or insular possession of the United States," etc.

General Laws, Chapter 496, Statutes 1917.

General Laws, Chapter 496, Statutes 1917, relating to the liquidation of banks,—referred to in note to Sec. 136 of Bank Act.

General Laws, Statutes 1907, Chapter 522. Approved March 23, 1907, as amended by Statutes of 1921, Chapter 785. Approved June 3, 1921.

Being "An act to provide for and regulate the deposit of county and municipal moneys in banks and banking corporations, limiting the amount of public moneys that may be deposited therein, and providing a penalty for the illegal deposit and use thereof." Statutes of 1907, Chapter 522; approved March 23, 1907, as amended by Statutes of 1921, Chapter 785; approved June 3, 1921.

APPENDIX

Section 1273 of the Code of Civil Procedure.

Section 1273 of the Code of Civil Procedure, referred to in Sec. 15 of the Bank Act—relating to procedure by which unclaimed deposits escheat to the State.

Bank deposits not drawn on or claimed for more than 20 years, where residence of depositor or claimant not filed with bank, escheat to State.

1273. All amounts of money heretofore or hereafter deposited with any bank to the credit of depositors who have not made a deposit on said account or withdrawn any part thereof or the interest and which shall have remained unclaimed for more than twenty years after the date of such deposit, or withdrawal of any part of principal or interest, and where neither the depositor or any claimant has filed any notice with such bank showing his or her present residence, shall, with the increase and proceeds thereof, escheat to the state. Whenever the attorney general shall be informed of such deposits, he shall commence an action or actions in the name of the State of California, in the superior court for the county of Sacramento, in which shall be joined as parties the bank or banks in which the moneys are deposited and the names of all such depositors. All or any number of depositors or banks may be included in one action. Service of process in such action or actions shall be made by delivery of a copy of the complaint and summons to the president, cashier or managing officer of each defendant bank, and by publication of a copy of such summons in a newspaper of general circulation published in said county for a period of four weeks. Upon the trial the court must hear all parties who have appeared therein and if it be determined that the moneys deposited in any defendant bank or banks are unclaimed as hereinabove

Attorney General to commence action against depositary bank and depositors to obtain judgment of escheat to State.

stated, then the court must render judgment in favor of the state declaring that said moneys have escheated to the state and commanding said bank or banks to forthwith deposit all such moneys with the state treasurer, to be received, invested, accounted for and paid out in the same manner and by the same officers as is provided in the case of other escheated property.

Section 1454 of the Code of Civil Procedure

Section 1454 of the Code of Civil Procedure, granting to certain surviving heirs of a deceased depositor the privilege of withdrawing a sum not greater than \$1,000 if that sum is aggregate of all decedent's deposits—said section being referred to in the note to Sec. 16 repealed 1919.

Certain surviving heirs of deceased depositor may, without administration, collect of bank, deposits of decedent not exceeding \$1000.

The surviving husband or wife or the guardian of the estate of any insane or incompetent husband or wife, of any deceased person, or if no husband or wife is living, then the children, or the guardian of the estates of any minor or insane or incompetent children of said deceased, or, if no children are living, then the father or mother or guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the father nor mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; provided, such deposits shall not exceed the sum of one thousand dollars.

Bank upon receiving affidavit stating certain specified facts, may pay such deposits.

Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent surviving husband or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is the child, or that affiants are the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife nor children, and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that affiants are the brothers and sisters, or the guardians of the estates of the minor, insane or incompetent brothers

and sisters, as the case may be, of said decedent, and that the whole amount that said decedent left on deposit in any and all banks of deposit in this state, does not exceed the sum of one thousand dollars, may pay to said affiant or affiants any deposit of said decedent, if the same does not exceed the sum of one thousand dollars, and the receipt of such affiant or affiants is sufficient acquittance therefor.

Whole amount left
by decedent in any
and all banks of
State not to exceed
\$1000.

Sec. 1278, Code of Civil Procedure

Section 1278 of the Code of Civil Procedure, relating to change of name of a banking corporation, referred to in publishers' note following Sec. 127 of the Bank Act.

Said Section 1278 appears in Title IX of Part III of the Code of Civil Procedure. This Title embraces Sections 1275-1279 of said Code, and covers the subject, "Of Change of Names."

Said Title IX, after providing that applications for change of name must be heard and determined in the Superior Court, and prescribing various steps to be taken in the institution and prosecution of an application of this kind, goes on in Section 1278 to provide as follows:

Proceedings at hearing in court on application for change of name of corporation.

Section 1278. Such application must be heard at such time as the court may appoint, and objections may be filed by any person who can, in such objections, show to the court good reason against such change of name. On the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper; provided, that if the applicant for a change of name be a corporation, such applicant shall file in court at the time of hearing the application, the certificate of the secretary of state that the name desired to be used by the applicant, is not the corporate name of any corporation existing at said time, and that said name does not so closely resemble the name of any such existing corporation as will tend to deceive; provided, further, that if the applicant for a change of name be a banking corporation, such applicant shall file in court at the time of hearing the application, the certificate of the superintendent of banks that the name desired to be used by the applicant does not resemble so closely as to be likely to cause confusion, the name of any other bank previously formed under the laws of this state.

Banking corporation must file in court certificate of Supt. to effect that name desired to be used not closely similar to name of existing bank.

MORTGAGE INSURANCE.

Extracts from Chapter VIII of Title II of Part IV of Division First of the Civil Code of California as revised and amended; Approved June 12, 1915.

Referred to in paragraph (e) of Subdivision 5 of Section 61, also in Subdivision (d) of Sec. 96, and in Sec. 99 of the Bank Act.

CHAPTER VIII.**MORTGAGE INSURANCE.**

Sec. 453aa. Mortgage insurance companies subject to insurance laws and the authority of insurance commissioner.

453bb. Mortgage insurance company defined. The term "security" as used in this chapter defined. Policy of mortgage insurance defined. Mortgage participation certificate defined. Entire mortgage guaranty defined.

453cc. Requisite capital stock of mortgage insurance company; certificate of authority required. Kind and amount of securities that may be guaranteed. Policies of mortgage insurance do not constitute "debts" or "indebtedness" of issuing company. Can not invest in, hold or own capital stock of another corporation, except as provided herein.

453dd. Must accumulate a surplus. Restriction on making of dividends.

453ee. Investments permitted.

453ff. Mortgage participation certificates and guaranteed securities made legal investments for trust funds, insurance companies and others.

453gg. Quarterly reports to insurance commissioner.

453aa. Every mortgage insurance company shall be subject to and shall comply with all the requirements of the laws of this state made applicable to insurance companies generally and the rules and regulations of the insurance department of this state, excepting in so far as said laws, rules or regulations may be inconsistent with the other provisions in this chapter contained; and the insurance commissioner shall have the same power and authority over such company that he may exercise in

Mortgage insurance companies subject to insurance laws and authority of insurance commissioner.

relation to other insurance companies, including the right to examine and inspect the financial condition and affairs of such company relating to the business of such company, and to compel compliance with the provisions of law governing any such company.

Definitions: "Mortgage insurance company."

453bb. The term "mortgage insurance company" shall include every association, corporation, firm or person who shall engage as a business in making and issuing policies of mortgage insurance.

"Security." The term "security" wherever used in this chapter, without a different meaning being specified or made apparent, shall be construed to refer to and include within its meaning a note or notes, or bond or bonds, together with the mortgage or deed of trust securing the same which evidence a debt secured by a first lien on a marketable title in fee to real estate, or to real estate with improvements thereon.

"Policy of mortgage insurance."

Any contract made and issued by a mortgage insurance company which purports to guarantee or insure against loss on, or to guarantee the payment of, within a specified time, the whole, or any part, of the principal, interest or other sums agreed to be paid under the terms of any security, or other sums secured under the terms of any security, shall be deemed, and is hereby designated, a "policy of mortgage insurance."

"Mortgage participation certificate."

A policy of mortgage insurance which evidences the ownership by the insured of an undivided or other partial share or interest, or the right to participate to a specified extent, in a security, or in a group consisting of several securities, and purports to guarantee the payment of such securities, or the payment of such undivided or other partial share or interest therein, or the amount of such participation, may be referred to as, and is hereby designated, a "mortgage participation certificate."

"Entire mortgage guaranty."

A policy of mortgage insurance, other than a mort-

gage participation certificate, which covers and refers to the entire indebtedness evidenced by a security, may be referred to as, and is hereby designated, an "entire mortgage guaranty."

* * * * *

453ff. Mortgage participation certificates, also securities guaranteed by policies of mortgage insurance issued in conformity with the provisions of this chapter shall be legal investments for all trust funds held by any executor, administrator, guardian, trustee or other person holding trust funds, also for the funds of insurance companies, banks, banking institutions and trust companies, and shall be accepted by the State of California, its officers and officials, as securities comprising any part of any fund or deposit required by law to be made with the State of California, or any officer or official thereof, by any trust company or insurance company doing business in the State of California, and all premiums required to be paid according to the terms of any such mortgage participation certificate, or other policy of mortgage insurance, may be charged to or paid out of the income from the note or notes or bond or bonds covered thereby; provided, that the foregoing provisions of this section, in so far as they refer to mortgage participation certificates, shall apply only to such mortgage participation certificates as evidence the ownership of shares or interests in, or participation in, securities which shall have been assigned to a trust company organized and doing business under the laws of and within this state and shall be held by such trust company for the common and equal benefit of the holders of all mortgage participation certificates issued or to be issued evidencing the ownership of shares or interests in, or participation in, any particular security or group of securities so assigned and such trust, and the administration thereof, shall at all times be and hereby is expressly made subject to the inspection, supervision and

Mortgage participation certificates, and certificates guaranteed by policies of mortgage insurance, legal investment for trust funds and funds of banks, trust companies, etc.

Forgoing provisions of Sec. apply only to such certificates as comply with specified requirements.

control of the superintendent of banks as fully and completely as if the same constituted a court trust under the provisions of the Bank Act; provided also, that each such mortgage participation certificate must bear the certificate of such trust company to the effect that the aggregate amount of mortgage participation certificates then outstanding, including both the one being certified and all others based on the same security or group of securities, does not exceed the amount of the unpaid principal of the debt or debts evidenced by such particular security or group of securities; provided also, that each security so assigned shall be accompanied by a copy of the appraisement and of the certificate of the directors filed or to be filed with the insurance commissioner as required by the provisions of this chapter; provided also,

Each certificate must have there- with certificates and appraisement, as specified.

that a copy of each such appraisement and accompanying certificate of the directors shall be promptly, upon the assignment of each such security, transmitted to the superintendent of banks, and that each such copy of appraisement so transmitted shall bear an endorsement or certificate executed by the trust company to which each such security is so assigned reciting and setting forth the amount of the unpaid principal named in the security which covers the property described in such appraisement; provided also, that if any such mortgage participation certificates, or securities guaranteed by policies of mortgage insurance issued in conformity with the provisions of this chapter, are used as securities comprising any part of any fund or deposit required by law to be made with the state treasurer by a trust company, the securities so guaranteed or the ownership of, or participation in, which is evidenced by such participation certificates must constitute a first lien on improved and productive real estate in the State of California, such improved real estate being worth at least double the amount of such lien; and also that the real estate and improvements which are covered by the lien of any security so guaranteed or the own-

Copy of appraisement, certificate, etc., to be transmitted to Supt.

First-lien requirements, as to certificates covered by this chapter, if used as part of fund or deposit with trust-company, with State Treasurer.

ership of, or participation in, which is evidenced by mortgage participation certificates which are so used shall be reappraised at least once every two years and in the manner in this chapter provided for appraisements, and a copy of each such reappraisement shall be filed with the trust company to which such security shall have been assigned and the original of each such reappraisement bearing the endorsement or certificate of such trust company as to the amount of the unpaid principal named in such security shall be filed with the superintendent of banks; provided, further, that the legality or validity of entire mortgage guaranties and mortgage participation certificates heretofore issued which fully conform to and comply with the law in force at date of issuance shall not be affected or impaired by the provisions of this chapter and such entire mortgage guaranties and mortgage participation certificates shall continue to be legal investments and recognized for all purposes to the extent and in the manner provided by the law in force at date of such issuance.

Legality of prior certificates which were valid when issued, not impaired by this chapter.

A mortgage insurance company which issues mortgage participation certificates in accordance with the provisions of this section may at any time and from time to time substitute for any security or securities comprising or constituting a part or parts of a group of securities, the ownership of, or participation in, which is evidenced in whole or in part by any such participation certificates, other securities similarly guaranteed by it and withdraw from the trust company the security or securities for which such substitution shall be made; provided, however, that at all times the amount of the unpaid principal of the debts evidenced by the particular group of securities held by such trust company and affected by any such substitution shall not be less than the aggregate amount of the participation certificates theretofore issued then outstanding and evidencing the ownership of undivided or other partial shares or interests, or participation, in

Substitution in securities on which participation certificates based—conditions governing.

Substitution in such group of securities; and provided further, that the securities on which participation certificates based—conditions governing—Continued.

right of substitution hereinbefore provided and the exercise thereof shall not alter or affect the status of such participation certificates as legal investments for trust funds, insurance companies, banks, banking institutions and trust companies as hereinbefore provided, or as securities acceptable by the State of California, its officers and officials, as comprising or constituting any fund or deposit, or any part thereof, required by law to be made with the State of California, or any officer or official thereof, by any trust company or insurance company doing business in the State of California.

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PENAL CODE.**RELATING TO FRAUDS IN THE MANAGEMENT
OF BANKS.****Penal Code Sections 561, 561a, 561b, 561c, 561d and 563a
and 563b.**

Section 561. An officer, director, agent, teller, clerk or employee of any bank, who, either

1. Knowingly overdraws his account with such bank and thereby obtains the money, notes or funds of any such bank; or

2. Asks for, receives, or consents or agrees to receive, any commission, emolument, gratuity or reward, or any promise of any commission, emolument, gratuity or reward, or any money, property or thing of value or of personal advantage for procuring or endeavoring to procure for any person, firm or corporation, any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange by any such bank, or for permitting any person, firm or corporation to withdraw any account with such bank, is guilty of a felony.

Bank officer, director, etc., over-drawing or permitting overdraft, or receiving commission in procurement, etc., of bank loan, etc., guilty of felony

Section 561a. Any officer, director, trustee, employee or agent of any bank in this state, who abstracts or wilfully misapplies any of the money, funds or property of such bank, or wilfully misapplies its credit, is guilty of a felony. Nothing in this section shall be deemed or construed to repeal, amend or impair any existing provision of law prescribing a punishment for any such offense.

Misappropriation,
etc., by bank director,
employee, etc.
—felony.

Section 561b. Every director of a bank in this state who:

Fraudulent insolvency of bank—
participation
therein, by director
—misdemeanor.

1. In case of the fraudulent insolvency of such bank, shall have participated in such fraud; or

2. Wilfully does any act as such director which is expressly forbidden by law or wilfully omits to perform any duty imposed upon him as such director by law, is guilty of a misdemeanor.

The insolvency of a bank is deemed fraudulent unless its affairs appear upon investigation to have been administered clearly, legally and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe.

Guaranty or endorsement, for bank, by officer or agent, or misdemeanor.

Section 561c. An officer or agent of any bank in this state, who makes or delivers any guaranty or endorsement on behalf of such bank, whereby it may become liable upon any of its discounted notes, bills or obligations, in a sum beyond the amount of loans and discounts which such bank may legally make, is guilty of a misdemeanor.

Director concurring in vote for illegal bank loan or discount; or

Section 561d. A director of a bank, organized under the laws of this state, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended to make a loan or discount to any director of such corporation, or upon paper upon which any such director is liable or responsible to an amount exceeding the amount allowed by the statutes; or

Director, officer, employee making or attempting illegal deposit of bank funds; or

Any director, trustee, officer or employee of any such bank who makes or maintains, or attempts to make or maintain, a deposit of such bank's funds with any other corporation on condition, or with the understanding, express or implied, that the corporation receiving such deposit make a loan or advance, directly or indirectly, to any director, trustee, officer or employee of the corporation so making or maintaining or attempting to make or maintain such deposit; or

Officer or employee concealing discounts of bank loans, or purchase or sale of bank securities between meetings, or failing to report same when so required by law— guilty of misdemeanor.

Any officer or employee of any such bank who intentionally conceals from the directors or trustees of such bank any discounts or loans made by it between the regular meetings of its board of directors or trustees, or the purchase of any securities or the sale of its securities during the same period, or knowingly fails to report to the board of directors or trustees when required to do so

by law, all discounts or loans made by it and all securities purchased or sold by it between the regular meetings of its board of directors or trustees, is guilty of a misdemeanor.

Nothing in this section shall render any loan made by the directors of any bank, in violation thereof, invalid.

Section 563a. Any officer, director, trustee, employee or agent of any bank organized under the laws of this state, who makes a false or untrue entry in any book or any report, tag or statement, of the business, affairs or condition, in whole or in part, of such corporation, with intent to deceive any officer, director or trustee thereof, or any agent or examiner, private or official, employed or lawfully appointed to examine into its condition or into any of its affairs, or any public officer, office or board to which such bank is required by law to report, or which has authority by law to examine into its affairs, or into any of its affairs, or who, with like intent, wilfully omits to make a new entry of any matter particularly pertaining to the business, property, affairs, assets or accounts of such bank in any book, report, statement, or tag of such bank made, written or kept, or required to be made, written or kept by him or under his direction, is guilty of a felony.

Officer, director,
employee, etc.,
making false entry
or omitting to make
required entry,
guilty of felony.

Section 563b. Any person who wilfully and knowingly makes, circulates or transmits to another or others any statement or rumor, written, printed or by word of mouth, which is untrue in facts and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank, doing business in this state, or who knowingly counsels, aids, procures or induces another to start, transmit or circulate any such statement or rumor, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

Making or circulat-
ing untrue, deroga-
tory statement as
to financial condition
of bank, misdemeanor.

Foreign General Laws, Chapter 772, Statutes of 1921:
Banking

Corporations. An act defining corporations for the purpose of engaging in international or foreign banking or other international or foreign financial operations or in banking or other financial operations in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions and to act when required by the secretary of the treasury of the United States as fiscal agents of the United States; providing for the incorporation, powers and supervision of such corporation, and providing for the licensing by the superintendent of banks of foreign corporations to transact in this state the business of a corporation defined and organized by this act.

The people of the State of California do enact as follows:

Section 1. When authorized by the previous written consent of the superintendent of banks as provided by section one twenty-seven of the "bank act" of California three or more persons may organize a corporation for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a dependency or insular possession of the United States, either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions as provided by this act, and to act when required by the secretary of the treasury of the United States as fiscal agents of the United States.

*May, when
required, act as
U. S. fiscal agents.*

Such persons shall execute articles of incorporation which shall specify in general terms the objects for which the association is formed and may contain any other provisions not inconsistent with law which the corporation may see fit to adopt for the regulation of its business and the conduct of its affairs.

*Articles of
Incorporation,
Contents of.*

Such articles of incorporation shall be signed by all of the persons intending to participate in the organization of the corporation and, thereafter, shall be forwarded to the superintendent of banks and shall be filed and preserved in his office. The persons signing the said articles

of incorporation shall, under their hands, make an organization certificate which shall specifically state:

Organization
Certificate—
statements in.

First—The name assumed by such corporation, which shall be subject to the approval of the superintendent of banks.

Second—The place or places where its operations are to be carried on.

Third—The place in the State of California where its main office is to be located.

Fourth—The amount of its capital stock and the number of shares into which the same shall be divided.

Fifth—The names and places of business or residence of the persons executing the certificate and the number of shares to which each has subscribed.

Sixth—The fact that the certificate is made to enable the persons subscribing the same, and all other persons, firms, companies, and corporations, who or which may thereafter subscribe to or purchase shares of the capital stock of such corporation, to avail themselves of the advantages of this act.

Each corporation so organized shall have power, under such rules and regulations as the superintendent of banks may prescribe:

(a) To purchase, sell, discount, and negotiate, with or without its indorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its indorsement or guaranty, securities, including the obligations of the United States or of any state thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the superintendent of

Powers of
foreign banking
corporations.

**POWERS OF
FOREIGN BANKING
CORPORATIONS—**
Continued.

banks may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the superintendent of banks may prescribe, but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus; to receive deposits outside of the United States and to receive only such deposits in this state or in any other state of the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States; and generally to exercise such powers as are incidental to the powers conferred by this act or as may be usual, in the determination of the superintendent of banks, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the power specifically granted herein. Nothing contained in this act shall be construed to prohibit the superintendent of banks, under his power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation organized under this section receives deposits in the United States authorized by this act it shall carry reserves in such amounts as the superintendent of banks may prescribe, but in no event less than 10 per centum of its deposits.

(b) To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in any state of the United States, and in the dependencies or insular possessions of the United States, at such places as may be approved by the superintendent of banks and under such rules and regulations as he may prescribe, including any state of

the United States, or countries or dependencies not specified in the original organization certificate.

POWERS OF
FOREIGN BANKING
CORPORATIONS.—
Continued.

(c) With the consent of the superintendent of banks to purchase and hold stock or other certificates of ownership in any other corporation organized under the provisions of this act, or under the laws of any foreign country or a colony or dependency thereof, or under the laws of any state, dependency or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and not transacting any business in the United States except such as in the judgment of the superintendent of banks may be incidental to its international or foreign business; provided, however, that, except with the approval of the superintendent of banks, no corporation organized hereunder shall invest in any one corporation an amount in excess of 10 per centum of its own capital and surplus, except in a corporation engaged in the business of banking, when 15 per centum of its capital and surplus may be so invested; provided, further, that no corporation organized hereunder shall purchase, own, or hold stock or certificates of ownership in any other corporation organized hereunder or under the laws of any state which is in substantial competition therewith, or which holds stock or certificates of ownership in corporations which are in substantial competition with the purchasing corporation.

Nothing contained herein shall prevent corporations organized hereunder from purchasing and holding stock in any corporation where such purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired in corporations organized under this act shall within six months from such purchase be sold or disposed of at public or private sale unless the time to so dispose of same is ex-

Holding stock in
other corporations—
When and how
permitted.

tended by the superintendent of banks as provided by section thirty-seven of the "bank act" of California.

Carrying on
part of business
in U. S.

No corporation organized under this act shall carry on any part of its business in the United States except such as, in the judgment of the superintendent of banks, shall be incidental to its international or foreign business; and provided, further, that except such as is incidental and preliminary to its organization no such corporation shall exercise any of the powers conferred by this act until it has been duly authorized by the superintendent of banks to commence business as a corporation organized under the Civil Code of California and the provisions of this act.

Engaging in
Commerce—
restrictions
upon.

No corporation organized under this act shall engage in commerce or trade in commodities except as specifically provided in this section, nor shall it either directly or indirectly control or fix or attempt to control or fix the price of any such commodities. The license of any corporation violating this provision shall be subject to forfeiture in the manner hereinafter provided in this act. It shall be unlawful for any director, officer, agent, or employee of any such corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any such commodities, and any such person violating this provision shall be liable to a fine of not less than one thousand dollars and not exceeding five thousand dollars or imprisonment not less than one year and not exceeding five years, or both, in the discretion of the court.

Capital stock
requirements.

No corporation shall be organized under the provisions of this act with a capital stock of less than two million dollars, one-quarter of which must be paid in before the corporation may be authorized to begin business, and the remainder of the capital stock of such corporation shall be paid in installments of at least ten per centum of the whole amount to which the corporation shall be limited

FOREIGN BANKING CORPORATIONS

as frequently as one installment at the end of each succeeding two months from the time of the commencement of its business operations until the whole of the capital stock shall be paid in. The right of every corporation organized under the provisions of this act to increase or decrease its capital stock, to change the number of its directors, to amend its articles of incorporation, to change its principal place of business, or its name, to extend its corporate existence, or to effect any other organic change shall be governed by the general corporation laws of this state and by the "bank act," and the procedure to effect any such change shall be that defined by the general corporation laws and the "bank act." Any bank may invest in the stock of any corporation organized under the provisions of this act, but the aggregate amount of stock held in all corporations engaged in business of the kind described in this act and in section fifty-eight of the "bank act" of California as amended shall not exceed ten per centum of the subscribing bank's capital and surplus.

Right to increase or decrease capital stock—how governed.

A majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a state of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States.

Investment by bank in stock of corporations organized hereunder.

Whenever it shall appear to the superintendent of banks that any corporation organized under the provisions of this act has violated the provisions of its articles of incorporation or any law of this state, or is conducting its business in an unsafe or unauthorized manner, or if the capital of any such corporation is impaired, or if any such corporation shall refuse to submit its books, papers and concerns to the inspection of any examiner of the state banking department of California or if any officer thereof shall refuse to be examined upon oath

Majority stock ownership must be in U. S. citizens, etc.

Upon violation of articles or law of State, Supt. may take possession of property and business of such corporation, etc.

touching the concerns of any such corporation or if any such corporation shall suspend payment of its obligations, or if from any examination or report provided for by this act the superintendent of banks shall have reason to conclude that such corporation is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any such corporation shall neglect or refuse to observe any order of the superintendent of banks specified in sections one hundred thirty-three or one hundred thirty-four of the "bank act" of California, the superintendent of banks may forthwith take possession of the property and business of such corporation and retain such possession until such corporation shall resume business, or its affairs be finally liquidated as provided by law for the liquidation of banks.

Deposit of corporate funds with other corporations.

No corporation organized under the provisions of this act shall deposit any of its funds with any other moneyed corporation unless such other corporation has been nominated and designated as such depositary as provided by section forty-three of the "bank act" of California; provided, however, that this limitation shall not apply to the deposit of funds by such corporation with another moneyed corporation, which owns all or a majority of the capital stock of such corporation.

Foreign banking corporation holding its own shares—restrictions upon.

No corporation provided hereunder shall be the holder of any shares of its own capital stock unless such stock shall have been taken to prevent loss upon a debt previously contracted in good faith, and stock so acquired shall, within six months from the time of its acquisition, be sold or disposed of at public or private sale; nor shall it, either directly or indirectly, make any discount to any person for the purpose of enabling him to pay for or hold shares of its stock either subscribed for or purchased by him. Any corporation organized under the provisions of

this act making any such discount shall forfeit to the people of the state twice the amount of such discount.

No corporation organized under the provisions of this act shall by any system of accounting or any device of bookkeeping, directly or indirectly enter any of its assets upon its books in the name of any other individual, partnership, unincorporated association or corporation, or under any title or designation that is not truly descriptive thereof.

Every corporation organized hereunder shall conform its methods of keeping its books and records to such orders in respect thereto as shall have been made and promulgated by the superintendent of banks. Any corporation organized hereunder that refuses or neglects to obey such order shall be subject to a penalty of one hundred dollars for each day it so refuses or neglects.

Each official communication directed by the superintendent of banks to a corporation organized under the provisions of this act or to any officer thereof, relating to an examination or investigation conducted by the state banking department or containing suggestions or recommendations as to the conduct of the business of such corporation, shall be submitted, by the officer receiving it, to the board of directors at the next meeting of such board, and duly noted in the minutes of the meetings of such board.

On or before the first day of February in each year, each corporation organized under the provisions of this act and every foreign corporation licensed by the superintendent of banks to transact the business of such a corporation in this state, shall make a written report to the superintendent of banks which shall contain a statement of its condition on the morning of the first day of January in said year and shall be in the form and contain the matters prescribed by the superintendent of banks. The superintendent of banks may, however, in his discretion,

Official communica-
tions to Superintend-
ent of Banks—

Annual report by
corporation to
Superintendent.

ANNUAL REPORT
BY CORPORATION
TO SUPERINTENDENT—Continued.

accept from a corporation organized hereunder, which has branches in a foreign country or countries, a report containing a statement of its condition as of a date not later than the first day of January and not earlier than the first day of November in the preceding year. Every such report shall be verified by the oaths of the two principal officers in charge of the affairs of such corporation organized under the provisions of this act or foreign corporation at the time of such verification, which shall state that the report is true and correct in all respects to the best of the knowledge and belief of the persons verifying it, and that the usual business of such corporation or foreign corporation has been transacted at the location required by this act and not elsewhere.

Special reports.

Every such corporation organized hereunder and foreign corporation shall also make such other special reports to the superintendent of banks as he may from time to time require, which shall be in such form and filed at such date as may be prescribed by the superintendent of banks and shall, if required by him, be verified in such manner as he may prescribe.

Failure or delay in
making report—
penalty for.

If any such corporation organized hereunder or foreign corporation shall fail to make any report required by this act on or before the day designated for the making thereof, or shall fail to include therein any matter required by the superintendent of banks, it shall forfeit to the people of the state the sum of one hundred dollars for every day that such report shall be delayed or withheld, and for every day that it shall fail to report any such omitted matter, unless the time therefor shall have been extended by the superintendent of banks.

Annual stockholders'
meeting.

List of stockholders
to be kept.

Every corporation organized under the provisions of this act shall hold a meeting of its stockholders annually upon a date fixed in its by-laws, such meeting to be held at its main office in this state. Every such corporation shall keep at its main office books containing the names of all stockholders thereof, and the names and addresses of

the members of its board of directors, together with copies of all reports made by it to the superintendent of banks. Every such corporation shall make reports to the superintendent of banks at such times and in such form as he may require; and shall be subject to examination once a year and at such other times as may be deemed necessary by the superintendent of banks by examiners appointed by him, the cost of such examinations to be fixed by the superintendent of banks and to be paid by the corporation examined.

Reports required by Superintendent.

Examinations by Superintendent.

The directors of any corporation organized under the provisions of this act may, semiannually, declare a dividend of so much of the net profits of the corporation as they shall judge expedient; but each corporation shall, before the declaration of a dividend, carry one-tenth of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty per centum of its capital stock.

Dividend declarations—when and how made.

No officer, director, clerk or other employee of any corporation organized under the provisions of this act, and no person in any way interested or concerned in the management of its affairs, shall as individuals discount, or directly or indirectly, make any loan upon any note or other evidence of debt, which he shall know to have been offered for discount to such corporation, and to have been refused. Every person violating the provisions of this subdivision, shall, for each offense, forfeit to the people of the state twice the amount of the loan which he shall have made.

Discount or loan by officer, director or employee—restrictions upon.

Penalty.

No officer, director, clerk or other employee of any corporation organized under the provisions of this act shall borrow, directly or indirectly, from such corporation any sum of money without the written approval of a majority of the board of directors thereof filed in the office of such corporation or embodied in a resolution adopted by a majority vote of such board exclusive of the director

Loans by such corporation to officer, director or employee—restrictions upon.

Loan to a corporation to whom the loan is made. If an officer, director, clerk or other employee of any such corporation shall own or control a majority of the stock of any other corporation a loan to that corporation shall be considered as a loan to such officer, director, clerk or other employee. Every person violating this provision shall, for each offense, forfeit to the people of the state twice the amount which he shall have borrowed.

Embezzlement or misapplication of corporate assets and other offenses by officers, directors and employees, receivers and others—how punishable.

Every officer, director, clerk, employee, or agent of any corporation organized under this act who embezzles, abstracts, or wilfully misapplies any of the moneys, funds, credits, securities, evidence of indebtedness or assets of any character of such corporation; or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, debenture, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of such corporation with intent, in either case, to injure or defraud such corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of such corporation, the superintendent of banks, or any agent or examiner appointed to examine the affairs of any such corporation; and every receiver of any such corporation and every clerk or employee of such receiver who shall embezzle, abstract, or wilfully misapply or wrongfully convert to his own use any moneys, funds, credits, or assets of any character which may come into his possession or under his control in the execution of his trust or the performance of the duties of his employment; and every such receiver or clerk or employee of such receiver who shall, with intent to injure or defraud any person, body politic or corporate, or to deceive or mislead the superintendent of banks or any agent or examiner appointed to examine the affairs of such receiver, shall make any false entry in any book, report, or record of any matter connected with the

duties of such receiver; and every person who with like intent aids or abets any officer, director, clerk, employee, or agent of any corporation organized under this act, or receiver or clerk or employee of such receiver as aforesaid in any violation of this act, shall upon conviction thereof be imprisoned for not less than two years nor more than ten years, and may also be fined not more than five thousand dollars, in the discretion of the court.

Whoever being connected in any capacity with any corporation organized under this section represents in any way that the State of California is liable for the payment of any bond or other obligation, or the interest thereon, issued or incurred by any corporation organized hereunder, or that the State of California incurs any liability in respect of any act or omission of the corporation, shall be punished by a fine of not more than ten thousand dollars and by imprisonment for not more than five years.

No person shall act in this state as the representative of any foreign corporation in transacting the business described in this act as the business of a corporation organized hereunder unless such corporation shall have complied with the provisions of this act relating to such corporations.

Every foreign corporation before being licensed by the superintendent of banks to transact in this state the business of a corporation defined and organized hereunder, or any part thereof, shall subscribe and acknowledge and submit to the superintendent of banks at his office, an application certificate in duplicate, which shall specifically state:

1. The name of such foreign corporation.
2. The place where its business is to be transacted in this state.
3. The amount of its capital stock actually paid in cash and the amount subscribed for and unpaid.

Representation as to State liability for payment of bonds, etc.—how punishable.

Acting as corporate representative in State—prerequisites.

Application certificate required of corporations hereunder.

4. A complete and detailed statement of its financial condition as of a date within sixty days prior to the date of such application certificate.

*Copy of charter and
by-laws required.*

At the time such application certificate is first submitted to the superintendent of banks, such corporation shall also submit a duly authenticated copy of its charter, or articles of incorporation and its by-laws.

*Prerequisites to
transaction of busi-
ness in this State by
corporation here-
under.*

No foreign corporation shall transact in this state the business defined in this act or any part thereof, unless such corporation shall have

1. Been authorized by its charter to carry on such business and shall have complied with the laws of the state or country under which it is incorporated;

2. Made the deposit with the state treasurer of the State of California hereinafter in this section required;

3. Designated the superintendent of banks, by an instrument in writing duly executed, its true and lawful attorney upon whom all process in any action or proceeding by any resident of the state against it may be served with the same effect as if it were a domestic corporation and had been lawfully served with process within the State;

4. Received a license duly issued to it by the superintendent of banks.

When the superintendent of banks shall have issued a license to any such foreign corporation, it may engage in the business of a corporation of the kind authorized by this act at the location specified in such license.

*Deposit with State
Treasurer before
issuing license to
transact such
business.*

Every such foreign corporation, before receiving a license to transact business in this state, shall deposit with the state treasurer of the State of California upon authorization of the superintendent of banks in trust as security for the depositors with and creditors of such corporation in this state, lawful money of the United States or securities of the kind and character described in section ninety-

six of the "bank act" of California, of the value of one hundred thousand dollars. Such foreign corporation so long as it shall continue solvent and comply with the laws of this state, may be permitted by the superintendent of banks to collect the interest on the securities so deposited and from time to time to exchange such securities for others, as provided by section ninety-six of the "bank act" of California, and may examine and compare such securities, as provided by section ninety-six of the "bank act" of California. Such foreign corporation shall pay License fee of
\$250. for such license a fee of two hundred fifty dollars.

Every foreign corporation, duly licensed by the superintendent of banks to transact in this state the business hereinabove defined and authorized, or any part thereof, shall within thirty days after the date of such license, submit to the superintendent of banks a statement verified by two of its principal officers, which shall contain the full name and business address of every individual, partnership or unincorporated association, who is acting or whom **it proposes to have act as its agent or representative in this state.** Whenever any such corporation shall engage any person to act for it in this state and the name and address of such person is not contained in such verified statement submitted to the superintendent of banks, such foreign corporation shall forthwith submit to the superintendent of banks an amended statement verified in the same manner as the original. A violation of this provision shall subject such foreign corporation to a forfeiture of one thousand dollars for each offense.

Corporation licensed
to transact business
in State to file writ-
ten designation of
agent, etc.

Penalty for
violation.

Whenever the superintendent of banks shall have revoked this license of any such foreign corporation and shall have taken the action to make such revocation effective, all the rights and privileges of such foreign corporation to transact business in this state shall forthwith cease and determine.

Revocation of
license—effect of.

Chapter 496, Statutes 1917.

General Laws, Chapter 496, Statutes 1917, relating to the liquidation of banks,—referred to in note to Sec. 136 of Bank Act.

Liquidation of banks. An act relating to the liquidation of banks by the superintendent of banks; empowering him to levy assessments against the members and stockholders of any bank in process of liquidation by him to an amount which he may determine to be necessary to promptly pay the creditors of such bank in full; to enforce such assessments by suit and empowering the superior court to determine the equities of the members and stockholders of any such bank to any surplus which may remain after the payment of the creditors of such bank in full and to award and distribute the same accordingly.

(Approved May 17, 1917. In effect July 27, 1917.)
The people of the State of California do enact as follows:

Supt., taking possession of bank business in liquidation, to determine as to assessment of stockholders, etc., to pay claims.

Section 1. Whenever the superintendent of banks shall hereafter take possession of the business and property of any bank doing business in this state for the purpose of liquidating its affairs, as provided by law, he may at any time during the process of such liquidation determine whether it shall be necessary to assess the members or stockholders of such bank in order to promptly pay the claims of the creditors of such bank in full and he shall make such assessments as he may determine to be necessary for that purpose.

Determination to make assessment evidenced by filing court petition.

Section 2. Such determination shall be evidenced by a complaint or petition against all of the members and stockholders of such bank filed by the superintendent of banks in the superior court of the county where the principal place of business of such bank is or was located at the time of the taking of such possession.

First assessment proving inadequate, Supt. may make further assessments.

Section 3. If such assessment, first made, shall prove inadequate to pay all of the creditors of such bank in full the superintendent of banks may make further assess-

ment or assessments by filing supplemental complaints or petitions in the same proceeding.

Section 4. In any such proceeding such assessment shall be enforced and collected and the proceeds thereof shall be added to the funds of such bank and applied by the superintendent of banks for the payment of just claims against the same.

Collection and application of proceeds of assessments.

Section 5. If after the payment of all just claims against such bank and the cost of liquidation any surplus shall remain said court shall determine the equities of the respective members and stockholders of such bank thereto and direct the payment thereof by the superintendent of banks accordingly.

Disposition of surplus after payment of claims, etc.

Section 6. The superintendent of banks shall have power to maintain an action in any other state or country to enforce and collect such assessments against any of such members or stockholders and the proceeds thereof shall become a part of the fund and be subject to the same disposition as if collected in the proceedings provided for in this act.

Supt. has power to maintain action to enforce assessment in other state or country.

Section 7. This act shall not affect any action or proceeding instituted by the superintendent of banks prior to its enactment.

Act not to affect proceeding instituted prior to enactment.

Section 8. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional or its operation or application is or may be limited or controlled by any constitutional provision.

General Laws, Statutes of 1907, as amended by
Statutes of 1921:

Deposits of public moneys: "An act to provide for and regulate the deposit of county and municipal moneys in banks and banking corporations, limiting the amount of public moneys that may be deposited therein, and providing a penalty for the illegal deposit and use thereof," approved March 23, 1907, Statutes of 1907, Chapter 522 as amended by act approved June 3, 1921, Statutes of 1921, Chapter 785.

—may be made by
legal custodian, in
state or national
banks in State.

Security therefor to
be furnished by
depositary banks.

Interest payable on
daily balances.

Section 1. All moneys belonging to any county or municipality within the state, may be deposited by any officer of such county or municipality having the legal custody of such county or municipal funds in any state or national bank or banks in this state; provided, that such bank or banks in which such moneys are deposited shall furnish as security for such deposits, bonds of the United States, or of this state, or of any county, city and county, city or school district within this state, or of any irrigation, or county water works district organized under the laws of this state and which bonds are legal for investments by savings banks in this state, approved by the officer making the deposit and the district attorney for the county or the attorney for the municipality to which the deposit belongs. The market value of the bonds furnished as security, shall be at least ten per cent in excess of the amount of the deposit secured thereby; but the amount of the deposit shall in no case exceed the face value of the bonds furnished as security therefor; and provided, that such bank or banks shall pay a reasonable rate of interest, not less than two per cent per annum on the daily balance therein deposited; provided, further, that the treasurer of any such county or municipality may, by and with the consent of the board of supervisors or board of trustees or other governing body of any such

county or municipality and under such conditions as they may fix, deposit moneys in any bank or banks outside of this state, necessary for the payment of the principal or interest of bonds at the place or places at which the same are payable. (As amended, 1921.)

Section 2. The rate of interest shall be fixed annually as herein provided in the month of January of each year on all deposits to be made for such year: provided, that the rate of interest for the year ending December 31st, 1907, may be fixed as herein provided within ninety days after this act goes into effect. The rate of interest shall be fixed in the case of counties, by the treasurer, auditor, and chairman of the board of supervisors, and in the case of municipalities by the treasurer, auditor (or clerk in municipalities having no auditor) and chairman of the council or other governing body of such municipality. Said rate of interest shall be a reasonable rate and not less than two per cent per annum on the daily balances deposited; and the rate of interest so established for each year as herein provided, shall be the uniform rate of interest required from all banks receiving deposits from the county or municipality, for that year.

Interest on all moneys deposited as herein provided for shall belong to the county or municipality represented by the officer making such deposit and shall be paid quarterly into the general fund of such county or municipality except where the law otherwise directs.

Section 3. It shall be the duty of the officer making the deposit, to receive from the bank in which the deposit is made, a receipt or receipts in duplicate showing the date and amount of deposit and rate of interest to be paid thereon, one copy of which said officer shall keep on file in his office and he shall file one copy with the auditor of the county or auditor of the municipality (or clerk in municipalities having no auditor) as the case may be.

When deposits may be made outside of State.

Annual rate of interest on deposits—how, when and by whom fixed.

Said rate to be reasonable and uniform.

Payment of interest on deposits—how and when made.

Officer making deposits to receive and file receipts.

Public record required of such deposits and of banks applying therefor.

Section 4. Every treasurer shall keep a record in his office which shall be open to public inspection, showing at all times the amount of money on deposit and all banks in which the same is deposited, and dates of deposit. Also a record of all banks making application for the deposit of the public funds.

Total amount of public deposits—
limitations upon.

Section 5. The total amount of public moneys on deposit in any bank, inclusive of all moneys belonging to the state or to any county or municipality within this state, shall not at any one time exceed the paid up capital stock and surplus of such depositary bank or banks. No officer shall have on deposit at any one time more than ten per cent of the public moneys under his control and available for deposit in any bank while there are other qualified banks requesting such deposits; provided, that no treasurer of a county or municipality, shall be required to deposit public moneys in any bank outside of the county or municipality owning the money. (As amended 1921.)

Deposits outside of county or municipality.

Bank receipts for deposits to be counted as cash.

Section 6. The receipt issued by any bank for deposits made therein, together with the bonds held as security therefor, shall be held by the treasurer making the deposit and be recognized and counted as cash to the amount recited in the receipt by the officers required by law to count the same.

Deposits, with interest, subject to withdrawal.

Section 7. Deposits, with interest thereon, shall be subject to withdrawal on demand of the treasurer making the same, or his successors in office, and any bank receiving the deposit of public moneys, may at any time return the same to the public officer making such deposit, together with interest to date of return, and it shall be the duty of the public officer upon receiving the return of such deposit, to immediately return to such bank all bonds held as security for the deposit returned. When any officer withdraws his deposit he shall return, on demand of the bank, such bonds as were held as security for the deposit or portion thereof withdrawn.

Section 8. Should any bank fail to pay any public moneys held on deposit as herein provided, the officer making such deposit may, after ten days' written notice to such bank, proceed to sell at public or private sale, such of the bonds held by him as security as he may see fit; provided, however, that he shall sell no bonds for less than their face value except at public sale after ten days' printed notice in some newspaper of general circulation published in the county where the sale is to take place. The proceeds of such sale, after paying all expenses, shall be credited to the account of the bank which deposited the bonds as collateral. Any bank failing to make payment, may, at any time before the sale of the bonds is completed, stop such sale by repaying all the moneys deposited with it, together with any expense that may have been incurred by the officer making such deposit, as the result of such failure. Should the proceeds of any such sale fail to fully repay any deposit, the balance remaining unpaid may be collected in an action of law in the name of the officer making the deposit.

Section 9. Public officials shall not be responsible for any loss of public moneys resulting from the deposit thereof when made in accordance with the provisions of this act. It shall be the duty of the officer making the deposit to safely keep all evidence of indebtedness issued by banks for deposits made therein, and bonds deposited for security and such public officer shall be responsible for such evidence of indebtedness, and for bonds held as security therefor, together with the interest thereon and the proceeds of any sale of such bonds; and the city, county or municipality for which said officer acts, shall be responsible to such bank for the safe return of the securities furnished by it to such officer.

Section 10. The expenses of transportation of moneys to or from the state, county or municipal treasuries to such depositaries shall be borne by such depositaries.

Bank failing to pay deposits on demand, bonds held as security may be sold.

Responsibility of public officials for loss of deposits, etc.

City, county, etc., responsible to bank for return of securities.

Expenses of transporting deposit moneys.

Making profit from,
or unlawful use of,
public moneys,
felony.

Section 11. The making of profit out of county, city, town or other public moneys, or using the same for any purpose not authorized by law by any officer having possession or control thereof, shall be a felony. Any violation of the provisions of this act by a bank or a banking corporation, shall be punishable by a fine not exceeding five hundred dollars for each offense and the officers of such bank or banking corporation and officer receiving such deposit shall be guilty of a felony.

Penalty for violation
of act.

Nothing herein to
prevent investment
or disposition of pub-
lic moneys as now
provided by law.

Section 12. Nothing in this act contained shall prevent any county or municipality within this state from buying bonds or otherwise investing its money in any manner now provided by law and nothing therein contained as to the disposition of interest on public moneys deposited shall apply to any money received or held by any county or municipality wherein any law provides for the payment of interest or profit thereon, into any particular fund.

Conflicting acts
repealed.

Section 13. All acts or parts of acts in conflict with this act are hereby repealed.

Section 14. This act shall take effect immediately.

BANK ACT OF CALIFORNIA

INDEX

	Section
Acceptances, bankers', purchasable by savings banks.....	67
Eligible for savings banks.....	61, 67
Commercial bank limitations	80
Issued under Edge Act, legal for savings banks.....	61
Of corporations formed under "Investment Companies Act".....	61
Savings bank limitations	61, 67
To furnish dollar exchange.....	80
Accounts of departments to be kept separate.....	26
Act, applicability of	1
Applicable to certain corporations	1
Applicable to violators of provisions of.....	1, 145
Effective when	147
Repeals all acts in conflict.....	146
Action, against bank for escheated deposits.....	15
Against merging corporations	31b
Against selling bank, limitation of period for.....	31
Against superintendent of banks	134, 136, 142
Brought under bank act, jurisdiction in.....	136b
For sale of real estate, when.....	54
May be maintained by superintendent of banks to dissolve bank.....	135a
Report of examination <i>prima facie</i> evidence.....	142
To recover penalties by attorney general.....	144
Adjustment of investments made prior to this act.....	145
Administrator, deposits of money with trust company.....	91
Deposits of personal property with trust company.....	95
Deposits with banks	51
Eligible as directors	10
Trust company may act as; oath required.....	90
Administrator, Public, deposits with trust company.....	92
Advertising as bank, restrictions on.....	12, 12a
As savings bank	49
As trust company, by national banks.....	48a
As trust company, restrictions on.....	12, 12a
Commercial bank must use word "commercial".....	28
Savings bank must use word "savings".....	28
Trust company must use the word "trust".....	28
Advertisement, building and loan association may not advertise as savings bank	12
For deposits, prohibited when	12
Of banks, regulated	28
Of bonds and securities limited	61a

BANK ACT OF CALIFORNIA—Continued

	Section
ADVERTISEMENT—Continued.	
Of branch offices, regulated.....	28
Of capital must show amount paid up.....	14
Of conversion, state bank into national bank.....	56a
Of resources and liabilities with those of other banks prohibited unless separately shown	14
Of a sale of banking business.....	31
Of unauthorized banking prohibited	12, 12a
Penalty for false, in re bonds.	61a
Savings shall not be advertised by whom.....	49
Surplus must show separate from undivided profits.....	14
Advisory Board, loan to member by commercial bank.	83
Affidavit of publication notice of sale.....	31
Reports of trust companies	101
Reports of banks.....	130, 130a
Agency of foreign bank may be examined by superintendent.....	124
Agent commercial bank, as	5
Liability for fraud or omission of duty.....	38
Of foreign bank must take oath.....	11
Of savings bank, not officer or director may borrow.....	65
Of commercial bank, loan to.....	83
Overdraft of, prohibited	39
Person collecting school savings deemed agent of banks.....	9
Purchase of assets or obligations of bank by.....	41, 42
Restrictions on purchase of assets or obligations of bank.....	41, 42
Special deputy superintendent of banks in liquidating bank.....	136
Superintendent of banks accepts process for foreign bank.....	7
When commercial bank may act for insurance company.....	5
Agents, loans to	65, 83
Agreement of consolidation must be filed	31a
Of consolidation must have approval of superintendent.....	31a
Of merger filed with superintendent.....	31b
Of merger must be approved by superintendent.....	31b
Of purchase and sale	31
Amendment corporate changes, certificate filed with superintendent.....	8
Of articles of incorporation, see Sec. 362 and 290a, Civil Code, Appendix.	
Of articles of incorporation must be filed with superintendent.....	8
Of by-laws filed with superintendent.....	8
To articles or by-laws not effective until filed with superintendent.....	8
Amortization of bonds by savings banks.....	61
Of bonds may be determined by superintendent.....	61
Annexation of city, effect on banks and branch offices.....	23, 60, 82
Annual Report of superintendent of banks to contain what.....	140
Copies printed for distribution.....	140

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
Appeal to Court from order of superintendent of banks.....	134, 136
From seizure of bank property	134, 136
Application for license to transact banking business.....	127, 128
For branch office license	9
Stockholders may petition for dissolution	137
To establish foreign branch	58
To organize banking corporation.....	127
Appointment of appraisers in certification of bonds	61a
Of attorney, chief deputy examiners and assistants by superintendent.....	121
Of special deputy superintendent of banks.....	136
Of superintendent of banks	120
Apportionment commercial bank capital and surplus.....	82
Departmental bank capital and surplus.....	23
Savings bank capital and surplus.....	60
Of capital and surplus, permission for.....	23
Of capital and surplus to court trust business.....	90
Of capital and surplus to private trust business	90
Appraisement of securities.....	61a, 99, 124
Of securities assigned to treasurer by trust companies.....	99
Appraisers, fee for examinations incidental to trust deposits.....	99
May be appointed in examination of bank's securities.....	124
Approval of superintendent of banks of purchase and sale agreement.....	31
Of superintendent of banks of consolidation agreement.....	31a
By superintendent of banks of merger agreement.....	31b
Articles of Incorporation affected by bank act.....	8, 145
Amendments must be filed with superintendent	8
Certified by secretary of state	8
Filed with superintendent of banks.....	8
May provide for departmental banking.....	22
Of consolidated bank	31a
Of trust company.....	90
Violation of, by banks, duty of superintendent.....	134, 135a, 136
Assessment against banks for state banking fund.....	123
As prior lien on real estate	57, 57a
Capital stock impaired	133
Effect if bank fails to pay	123
Governmental, effect as lien on real estate	57, 57a
Assessment of Stock, stockholders must be notified.....	133
Refusal of stockholder to pay, effect.....	133
Assets, commercial bank may pledge for borrowed money to what extent.....	21a
May not be carried in excess of actual cost.....	45
Of banks, relation of loans thereto.....	44
Of each department held for its depositors.....	27

BANK ACT OF CALIFORNIA—Continued

	Section
ASSETS—Continued.	
Of each department to be kept separately	26
Overdrafts limited to ninety days.....	21a
Purchase of by officers, directors, agents, employees.....	41, 42
Relation of commercial bank bond investments to.....	36, 46
Relation to bond investments of commercial bank.....	36, 46
Savings bank may pledge for borrowed money but governed by superintendent	62
Shall not be mingled with trust funds.....	32
Shall not be pledged to give preference.....	21a
Assignee, deposits of money with trust company.....	91
Deposits of personal property with trust company.....	93
Deposits with banks	51
Trust company may act as; oath required.....	90
Assistants of state banking department appointed.....	121
Attorney, designation of superintendent of banks by foreign corporations.....	7
For state banking department	121
May be employed in liquidating bank.....	136
Attorney General, actions brought by, to recover penalties.....	144
Duties relative to escheated deposits.....	15
Audit of bank's affairs may be made by superintendent.....	124
Auditor appointed by superintendent to audit bank.....	124
Authorization certificate for branch office.....	9
Certificate for commercial bank	127, 128
Certificate for foreign bank.....	7
Certificate to representative of foreign bank or trust company.....	12c
Certificate for savings bank	127, 128
Certificate for trust company	127, 128
Bad Debts, sale or compounding of bad or doubtful debts.....	136
What are	21b
Bailee, savings banks may act as, for United States securities.....	70
Banks, advertising as, restrictions on.....	12, 12a
Advertising as savings bank	49
Advertising capital of	14
Applicability of act to	145
Application to do business	127, 128
Articles of incorporation	8, 128
Assessed for state banking fund.....	123
Banking corporation, how organized.....	3, 127, 128
Bond investments, savings.....	61
Bond investments, commercial.....	36, 46
Borrowing money	21a, 62

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
BANKS—Continued.	
Branch for foreign business.....	58
Branch office	9
Called report	130
Conducting safe deposit department.....	30
Capital impaired	133
Capital stock	53
Ceasing business, must take what action.....	136a
Classified as to capital by population.....	23
Classified as commercial, savings and trust	2
Commercial, purposes of	5
Conducting business in unsound manner.....	134, 135a
Connection with, by superintendent of banks prohibited.....	120
Consolidation of	31a
Conversion into national banks.....	56a
Defined	2
Departmental, separate books to be kept.....	26
Departmental, shall make reports separately.....	129
Departmental, shall publish statements separately.....	129
Deposit with, does not create debt within certain meaning.....	55
Dissolution of, by process of law.....	135a
Dissolved, funds of	137
Depositary of trust funds.....	51
Distribution of funds of insolvent.....	136
Escheat of unclaimed deposits.....	15
Examination of, by court	136
Examination of, by directors	139
Examination annually	124
Examination of, when failing to report.....	138
Examiner, failure to report insolvent condition.....	126
Examiner, must file oath	125
Examiner, shall not act as receiver, when.....	125
Expiration of corporate existence	136a
Extra examination, expense of.....	124
Failure to make report, penalty.....	138
Federal reserve, exempt from examination.....	48
Fines, may be compromised before action instituted.....	144
Foreign, inspection of	124
Foreign, see Foreign Banking Corporations.	
Forfeitures, how recovered.....	144
Forfeitures, may be compromised before action instituted.....	144
Funds, when deposited with other banks.....	43, 68, 85
Impairment of capital.....	133, 136
In liquidation, names posted.....	141

BANK ACT OF CALIFORNIA—Continued

	Section
BANKS—Continued.	
Insolvent when fails to restore reserves.....	30
Insolvent condition of, failure to report.....	126
Inspection of by superintendent of banks	124
In unsafe condition.....	136
Investments, changed to conform to act.....	145
Investments in own stock prohibited.....	34
License to foreign corporation.....	7
Limited time to repair capital.....	133
Limited time to report.....	138
Limited to investment in safe deposit.....	30, 37
Liquidation of, by superintendent of banks.....	136
Loans on own stock prohibited.....	34
Loan on stock of other bank.....	44
May acquire stock in safe deposit corporation, when.....	37
May acquire stock in stock company, when	37
May apply to court to dissolve.....	137
May be cited to show cause.....	134
May be closed by superintendent of banks	136
May conduct safe deposit department	30
May be consolidated, how.....	Sec. 31a
May engage in foreign banking, how.....	58
May join federal reserve bank.....	56
May not acquire corporate stock; exceptions.....	37
May purchase real estate, when.....	61, 84, 105
May purchase safe deposit corporation stock.....	37
May purchase trust company stock.....	37
May resume business, when.....	136
May sell business	31
Meaning of word.....	2
Member federal reserve bank subject to state law.....	56
Merger of	31b
Must carry assets at actual cost.....	45
Must have certificate of superintendent of banks.....	24
Must liquidate, when.....	136a
Must sell or exchange other real estate, when.....	54
Mutual, may have capital stock.....	29
Must post license	50
Name, change of, see Sec. 1278, Code of Civil Procedure, Appendix.	
Name not to be similar to that of other bank.....	127
Must sell stock acquired.....	37
National, examination of.....	48
National examination of trust department.....	48a
National bank may become state bank.....	56b

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
BANKS—Continued.	
New, information of, to be posted.....	141
Nomination of depositary.....	43
Not to purchase unless permitted by superintendent, note, bond or contract in which officer, director, employee or controlling stockholder interested	35
Notice when converting into national banks.....	56a
Obligations or assets of, when purchased by officers, directors and employees	41, 42
Organization of, previous consent of superintendent required.....	127
Penalties imposed, how recovered.....	144
Penalties pecuniary, may be compromised before action instituted.....	144
Publication of report of.....	132
Publication of unclaimed deposits	15
Purchase of	31
Refusal to observe order of superintendent of banks.....	136
Refusal to submit books.....	135a, 136
Remittance for state banking fund.....	123
Report of, to superintendent of banks.....	130
Sale of	31
Savings, purposes of.....	4
Signs must show business conducted.....	28
Special report may be required.....	130a
Stationery must show business conducted.....	28
Stock, minimum par value, except	53
Suspending payment of obligations.....	135a
Trust company, purposes of.....	6
Use of term restricted.....	12
Violation of articles of incorporation.....	134, 135a, 136
Voluntary liquidation	136a, 137
When unsafe to continue business	135a
Without capital stock	29
Bank Acceptances, by commercial bank	80
By savings bank	67
Savings bank limited.....	67
Commercial bank limited.....	80
Bank Act, amendment to desired by superintendent of banks.....	140
Applicability of	1, 145
Applicable to certain corporations.....	1
Applicable to violators of provisions of	1, 145
Effective when	147
Jurisdiction in actions brought under.....	136b
Repeals all acts in conflict	146
Report of superintendent as to desirable amendments.....	140

BANK ACT OF CALIFORNIA—Continued

	Section
BANK ACT—Continued.	
Relation to prior investments.	145
Title	1
Banking, by foreign corporations.	7
Defined	2
Corporation to conduct organized by not less than three natural persons..	3
May be conducted only by corporation.....	2
Restricted to certain corporations.....	13
Bank Premises, all departments to be conducted in same or adjoining building;	
exception trust department.....	26
Investment in, by commercial banks.....	84
Investment in, by savings banks.	61
Investment in, by trust company.....	105
Trust company may mortgage to state treasurer, when.....	97
Bills of Exchange, commercial banks may buy or discount.	80
Commercial banks may accept, when.....	80
Eligible for savings banks.	67
Not construed to create debt, within certain meaning	55
Bills Payable, see Borrowed Money.	
Bond of special deputy superintendent of banks.	136
Of chief deputy superintendent of banks.....	121
Of superintendent of banks	120
Trust company not required to give.....	94
Bonds, advertising legality of for savings banks.	61a
Amortization of	61
Certified, official list to be kept.....	61a
Commercial banks limited in investing.....	36, 46
Corporate, foreign corporation may act as trustee.....	90
Cost of investigation of	61a
Eligible for deposit by trust company with treasurer.....	96
Foreign corporation may buy and sell bonds.....	12c
Irrigation district, investment in by savings bank.	61
Legal investments of savings banks.	61
Of foreign government may be certified for savings banks.	61
Of state, available for investment by savings banks.	61
Penalty for illegal advertisement of.....	61a
Power of superintendent of banks to investigate.....	61a
Public utility	61
Railroad	61
Savings banks limited in investing in.....	67
United States, loan on by commercial bank.....	80, 83
Savings banks may acquire for debt.	61
Transfer of, between departments.....	25
United States savings banks may loan on.....	67

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
Books, audit of, by request.....	124
Must show actual cost of assets.....	45
Of departments to be kept separate.....	26
Refusal of bank to submit.....	135a, 136
Borrowed Money, by commercial bank to purchase U. S. securities.....	21a
By savings bank to purchase U. S. securities.....	62
By savings bank must be approved by superintendent.....	62
Commercial bank may pledge assets, to what extent.....	21a
Excess loan to savings bank not invalid as to lender.....	62
Limitations on, commercial.....	21a
Limitation on savings.....	62
Rediscounts by commercial bank.....	21a
Rediscounts by savings bank permitted.....	62
Savings bank must report to superintendent	62
State, county, city or other funds, see Public Deposit Acts, Appendix.	
Superintendent of banks may extend limit to commercial bank.....	21a
United States or postal money by commercial bank	21a
United States or postal money by savings bank.....	62
Borrower, endorser or guarantor, deemed to be.....	66
Branch Offices, advertising of.....	28
Approval of superintendent of banks.....	9
Capital necessary to establish.....	9
Capital necessary to establish foreign	58
Certificate necessary to open.....	9
Effect of consolidation of cities on.....	23, 60, 82
Fee for certificate to open.....	9
Foreign branch, how established.....	58
May not be discontinued without consent of superintendent.....	9
Of foreign corporations	7
Penalty for maintaining without certificate.....	9
Regulations governing advertising and stationery.....	28
Removal of	23
Report of foreign branches	58
Right to establish, in foreign country or dependency or possession of United States	58
Signs of, must show what.....	28
Window signs and stationery must show, what.....	28
Broker, when commercial bank may act as.....	5
Building and Loan Association, activities permitted.....	12, 12a
Advertising, how restricted	12, 12a
May accept savings for which certificate or shares must be issued.....	12, 12a
Savings bank, not to advertise as.....	12, 12a

BANK ACT OF CALIFORNIA—Continued

	Section
Bulletin, information to general public.....	141
To be filed as public document.....	141
To be posted by superintendent of banks.....	141
Business, see Bank—Banking.	
By-Laws, amendments must be filed with superintendent.....	8
Must be filed with superintendent of banks.....	8
Of savings banks must prescribe rules governing savings deposits.....	64
California Bonds, legal for savings banks.....	61
Called Report, of bank, publication of.....	132
Penalty for failure to render.....	138
Publication of statement.....	132
Required how often	131
Time limited for bank to render.....	138
To coincide with call of comptroller of currency, when.....	131
To contain what	130, 130a
Capital, advertised or published, how.....	14
Amount necessary to establish foreign branch.....	58
Apportioned between departments.....	23
As security for performance of trusts.....	90
Assigned by foreign corporation.....	7
Commercial bank, governed by population.....	82
Commercial bank, relation to deposit liability.....	19
Departmental bank	23
Impairment of	133, 136
Increase or decrease of authorized capital, see Secs. 359 and 290a, Civil Code, Appendix, and Sec. 8, Bank Act.	
Invested in bank premises, furniture and fixtures and safe deposit vaults	61, 84, 105
Maintained by selling bank.....	31
May be increased by conversion of surplus.....	21
May be reapportioned between departments.....	23
May be paid up before issuance of certificate.....	127
Necessary to open branch office.....	9
Not required against public deposits or postal savings when secured.....	19
Of commercial bank, relation to deposits.....	19
Of foreign corporation to be separate.....	7
Of savings bank, governed by population.....	60
Of savings bank, in what invested.....	61
Of savings bank, relation to deposits.....	19
Of savings bank, relation to deposit liability	19
Of title insurance company transacting trust business.....	106
Of trust company, how invested.....	105
Of trust company required.....	90

INDEX

BANK ACT OF CALIFORNIA—Continued

CAPITAL —Continued.	Section
Permission to segregate for department.....	23
Reapportionment to departments.....	23
Relation to payment for state banking fund.....	123
Relation of surplus to.....	21
Security to depositors and stockholders.....	21
Trust company, how invested.....	105
Capital and Surplus , relation to acceptances by savings bank.....	67
Relation to deposit liabilities.....	19
Relation to loans by commercial bank.....	80
Relation to loans by savings bank.....	67
Capital Stock , assessed when	133
As collateral, limited	44
Banks shall not invest in their own.....	34
Banks shall not loan on their own.....	34
Certificates of	53
Certificate of increase or decrease filed with superintendent of banks.....	8
Diminution of	55
May be sold for assessment.....	133
Of corporations engaged in foreign banking, banks may purchase, when.....	58
Of safe deposit corporation, investment in.....	37
Of trust company, investment in.....	37
Par value must be one hundred dollars, exception.....	53
Reduction of, restricted.....	55
Sale of, when acquired by bank.....	37
When not to be decreased.....	23
Census , as basis for classification.....	23
Certificate, mortgage participation, legality for savings banks	61
Mortgage participation, when available for deposit by trust company with treasurer	96, 99
Necessary before transaction of business.....	24
Necessary for new department.....	24
Of superintendent of banks in consolidation.....	31a
Of superintendent of banks to be posted in banking room.....	50
Fee required	24
To open branch office.....	9
Certificate of Deposit , bank cannot make partial payments on.....	21a
Does not create debt within certain meaning.....	55
Savings bank may issue.....	63
Certification of Bonds , certificate may be revoked.....	61a
Certificate of railroad or other utility bonds expires, when.....	61a
Does not obligate state.....	61a
Powers and duties of superintendent.....	61a
Renewal within discretion of superintendent.....	61a

BANK ACT OF CALIFORNIA—Continued

	Section
Certified Checks, issuance unlawful, when.....	52
Must be immediately charged.....	52
Checks, certified, must be charged immediately.....	52
Certified, when unlawful.....	52
Chief Deputy, appointed.....	121
Duties in event of disability of superintendent or vacancy of his office.....	121
Failure to report insolvent condition of bank.....	126
Oath of office; time limit of filing.....	121
Qualifications	121
Citation, issued by court on sale of real estate owned by bank.....	54
Issued to bank by superintendent.....	134
City, assessment, effect as first lien.....	57, 57a
Bonds as investments for savings banks.....	61
Bonds of city in this state eligible for deposit by trust company with treasurer	96
Annexation or consolidation, effect on banks and branch offices.....	23, 60, 82
Deposits, see Public Deposit Act, Appendix.	
Claims against bank in liquidation.....	136
Classification, as applied to banks previously organized.....	23, 60, 82
Of banks	2
Of cities, governed by federal census.....	23, 60, 82
Of cities with reference to capital.....	23, 60, 82
Of cities with reference to population.....	23, 60, 82
Of trusts—court and private	101
Clerk, overdraft prohibited.....	39
Club, loans to, exemptions in favor of.....	65, 83
Collateral, savings bank collateral.....	67
Collateral Trust Bonds, when legal for savings banks.....	61
Commercial Bank, acceptances to furnish dollar exchange.....	80
Accepting drafts or bills of exchange.....	80
Advertising, how regulated	28, 49
Agent for fire, life or other insurance company.....	5
Bond investments limited.....	36, 46
Borrowed money	21a
Broker in making or procuring real estate loans.....	5
Capital and surplus to deposits.....	19
Capital with reference to population.....	82
Defined	5
Deposits with other commercial bank may be limited by superintendent.....	85
Depositories	68
Directors of, loans to	83
Employees of, loans to.....	83
Insurance company, agent of.....	5

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
COMMERCIAL BANK—Continued.	
Investment in bank premises	84
Investments in bonds.....	36, 46
Interest unpaid for one year, effect.....	21b
Limitations on acceptances.....	80
Limitations on loans.....	80, 81
Loans on U. S. securities unlimited; margin necessary.....	80
Loans to affiliated bank.....	83
Loans to directors and employees.....	83
Loans to directors, agents or employees on U. S. securities permitted without report	83
Loans to members of advisory board.....	83
Loans to one borrower limited.....	80
Loans to officers prohibited.....	83
May accept drafts or bills of exchange.....	80
May borrow state, county, city or other public money.....	21a
See also Public Deposit Acts, Appendix.	
May borrow U. S. or postal money.....	21a
May pledge assets to what extent.....	21a
Not to advertise for savings.....	49
Not to conduct savings business	49
Officer may not borrow.....	83
Overdraft may not be carried more than ninety days.....	21b
Powers of	5
Prohibited loan must be reported if made.....	83
Purposes of	5
Ratio of capital and surplus to deposits.....	19
Real estate loans restricted.....	80
Real estate loan to be first lien.....	47
Rediscount with federal reserve bank.....	21
Reserves required	20
Restrictions on brokerage and insurance agency.....	5
Selling real estate may take subordinate lien.....	47
Shall not guarantee insurance premium.....	5
Unsecured loaning limit	80
Commercial Paper, commercial banks may buy or discount limitations.	80
Loans on, by commercial banks limited.....	80
Savings bank investments
Commission, to officer, director, agent, teller, clerk, employee prohibited.	39
Consolidation Agreement, approval of.	31a
Recitals of	31a
Consolidation of Banks.	31a
Consolidation of Cities, effect on banks and branch offices.	23, 60, 82

BANK ACT OF CALIFORNIA—Continued

	Section
Contract, purchase of, if directors, officer, employee or controlling stockholder interested, requires consent of superintendent.....	35
Conversion of national bank into state bank.....	56b
Of state bank into national bank.....	56a
Notice to savings depositors	56a
Branch office licenses that may be revoked.....	56a
Certificate of comptroller to be filed with superintendent.....	56a
Corporate Existence, if expires bank to liquidate.....	136a
May be extended—see Civil Code.	
Of consolidating bank	31a
Of merging banks	31b
Corporate Changes, certificates of filed with superintendent of banks.....	8
Corporations, club, exemptions in favor of loaning to.....	65, 83
Doing title insurance and trust business.....	107
Loans to by commercial bank if officers interested.....	83
Loans to by savings bank if officers or directors interested.....	65
Membership, exemptions in favor of loaning.....	65, 83
Mortgage insurance, securities of, as deposit by trust company with treasurer	96, 99
Mutual, may elect to have capital stock.....	29
Powers and privileges abridged by this act.....	145
Prohibited loans to must be reported.....	65, 83
Religious exemption in favor of loan to.....	65, 83
Stock as investment for banks limited.....	37
Stock of as collateral, limited	44, 67
To conduct banking or trust business organized by not less than three natural persons	2
Transmitting money to foreign countries.....	13
Use of words "bank," "banking," etc., restricted.....	12
Use of word "savings" restricted	12, 12a, 49
Corporations, Foreign, see Foreign Banking Corporations and Foreign Trust Company.	
Costs, in liquidation of bank.....	136
In sale of real estate by court.....	54
Counsel, compensation, liquidating delinquent banks.....	136
County, assessment, effect as first lien.....	57, 57a
Bonds, as investment for savings banks.....	61
Bonds eligible for deposit by trust company with treasurer.....	96
Deposits, see Public Deposit Acts, Appendix.	
Court, appeal to from order of superintendent.....	134, 136
Appeal to from seizure of bank property.....	134, 136
Authorizing deposit with bank by executor, trustee, etc.....	51
Authorizing deposit of money with trust company.....	91

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
COURT—Continued.	
Authorizing deposit of personal property with trust company.....	93
Jurisdiction in sale of real estate held by bank.....	54
May require knowledge of private trusts.....	103
Court Trusts, capital as security for performance of.	90
Defined	101
Secured separately by deposit with treasurer.....	96
When deemed to include private trust.....	101
Creditors, preference shall not be given.	21a
Rights in consolidation of banks	31a
Rights in liquidation of bank.....	136
Rights in merger of banks.....	31b
. Rights when banking business sold.....	31
Debt, deposit with bank does not create debt within certain meaning	55
Savings banks shall not contract, except.....	62
When to be charged off.....	21b
Deceased Depositor, amount due to must be reported.	15
When deposits escheat	15
Decedent, deposits of	68½
Definition, Of bank	5
Of commercial bank.....	5
Of commercial paper eligible for savings banks.....	67
Of "reserve depository"	20
Of "reserves on deposit"	20
Of "reserves on hand"	20
Of savings bank	4
Of "total reserves"	20
Of trust company.....	6
Department, capital to be apportioned to.	23
Certificate for new department necessary.....	24
Purchase of business of.....	31
Safe deposit	30
Sale of business of.....	31
Separate administration of.....	26
Shall not deposit with other department; exception.....	25
Departmental Bank, application to conduct.....	23
Assets of each department held for its depositors.....	27
Assets to be kept separate.....	26
Books of account to be kept separate.....	26
Business of all departments to be conducted in same building.....	25
Cash, securities and property of departments not to be mingled.....	25
Classified as to capital by population.....	23
Conversion into national bank.....	56a
Departments to be in same or adjoining building; exception.....	26

BANK ACT OF CALIFORNIA—Continued

DEPARTMENTAL BANK—Continued.	Section
Investments, books and accounts of each department to be separately kept	25
New department must receive certificate.....	24
Publish statements of departments separately.....	129
Reapportionment of capital and surplus.....	23
Reserves required	25
Sale or transfer of assets between departments.....	25
Separate reports of each department.....	129
Transfer of deposit between departments.....	25
Transfer of loans between departments.....	25
Trust department may be conducted in separate building with consent of superintendent	25
Department, prerequisites to opening.....	24
Depository, amount savings bank may deposit with.....	68
Commercial bank reserves.....	20
Designation by superintendent of banks.....	43
Federal reserve bank may act as.....	43
Federal reserve bank need not be designated by superintendent of banks	43
National bank acting as.....	48
Savings bank as bailee for United States bonds.....	70
Savings bank reserves.....	68
Trust company may act as; oath required.....	90
Depositors, deceased or unknown.....	15
Have priority of security in capital and assets.....	21
May withdraw when bank's business sold.....	51
Money of, invested in stock of bank.....	34
Of savings bank converted into national bank, notice to.....	56a
Payment of on dissolution	136
Repayment of by department.....	27
Preference to prohibited.....	21a
Repayment to by savings banks.....	64
Rights, when bank sold.....	31
Savings, may be paid by draft.....	62
Savings bank may require notice of withdrawal.....	64
Unknown	15
Deposits, additional with treasurer by trust company.....	98
Advertising for, prohibited when.....	12
By administrator	51
By assignee	51
By executor	51
By guardian	51
By order of court	51
By public administrator with trust company.....	92

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
DEPOSITS—Continued.	
By receiver	51
By trust department with commercial or saving department.....	25
By trustees	51
Capital and surplus, relation to.....	19
Certificate of, savings bank may issue.....	63
Departmental, to be kept separate.....	25, 26, 27
Escheat, when	15
From one department with another.....	25
Interest on, paid by trust company.....	95
In trust for another may be paid to beneficiary if trustee dies, when.....	15a
Joint	15a
Must not be increased, when.....	19
Notice of withdrawal of.....	64
Of commercial bank with another commercial bank may be limited.....	85
Of estate funds with trust company.....	92
Of foreign corporation to be separate.....	7
Of or for minor may be paid to him.....	15c
Of other banks with savings banks.....	68
Of public moneys with savings bank.....	62
Of savings bank, relation to acceptances	67
Of savings bank, relation to loans	67
Of savings banks with other banks.....	68
Of trust companies with state treasurer to be increased, when.....	98
Of trust companies with state treasurer	96
Of trust company with treasurer securities may be exchanged.....	96
Of trust company securities with treasurer documents and appraisal.....	99
Of trust department with savings department.....	25
Of trust funds with trust company.....	91
Percentage of deposited with one bank.....	68-20
Preferred claim, when.....	51
Ratio of capital and surplus to.....	19
Reserves required against commercial.....	20
Reserves required against savings.....	68
Savings, repayment of.....	64
Soliciting or receiving deemed banking business.....	2
Transfer of, when bank sells business.....	31
Unclaimed, law governing.....	15
Unclaimed, when bank suspends business.....	136a
When bank does not create debt within certain meaning.....	55
With federal reserve bank by state bank.....	20-68
With national bank by state bank.....	48
With other banks to be assets of department by which made.....	25
With treasurer may be withdrawn by trust company.....	98
With trust company, responsibility for.....	94

BANK ACT OF CALIFORNIA—Continued

	Section
Deputy Superintendent, <i>see</i> Chief Deputy.	20-43
Designation of depositary.....	10
Director, administrator eligible as.....	10
Annual examination of bank necessary.....	139
Bank without capital, director must be member and depositor.....	10
Certificate of change of number filed with superintendent of banks.....	8
Commercial banks, loans to.....	83
Commission to, prohibited.....	39
Declaration of dividends by.....	21
Eligibility of	10
Examination of bank by board or committee.....	139
Executor eligible as.....	10
Executor or administrator holding stock in representative capacity eligible	10
Increase or decrease. <i>See</i> secs. 361 and 290a Civil Code Appendix.	
Increase or decrease of.....	8
Liability for fraud or omission of duty.....	38
May be removed, when.....	10
May require examination by superintendent in lieu of theirs.....	139
May sell stock for assessment.....	133
Monthly meeting must be held.....	11
Names to be posted in bank.....	17
Oath required	11
Overdraft of, prohibited.....	39
Prohibited loans to, must be reported.....	65-83
Purchase of assets or obligations of bank, by.....	41-42
Qualifications of	10-11
Report of examination to contain, what.....	159
Sale of note, bond or contract to bank.....	35
Savings bank, may not borrow.....	65
Savings bank, shall not be endorsers.....	65
Savings bank may borrow on United States securities.....	65
Sells or hypothecates qualifying stock—must notify superintendent.....	10
Shall levy assessment, when.....	133
Discounts, banks of.....	5
Commercial bank may.....	5
Savings bank capacity.....	67
Dissolution, causes for	136
Involuntary	136
Bank may apply to dissolve.....	137
Of national bank to enter state system.....	56b
Voluntary, proceedings	137

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
District Bonds, those eligible for deposit by trust company with treasurer.....	96
Those legal for savings banks.....	61
Dividends, accrued but unpaid interest not calculated.....	45
Banks in liquidation.....	136
Directors may declare, under what conditions.....	21
Escheat to state, when.....	137
Escheated to state, invested how.....	137
Increase of surplus when dividend paid.....	21
In receivers' hands, how disposed of.....	137
Of suspended banks.....	136a
Paid out on court order.....	137
Trust company may receive on securities deposited with treasurer.....	96
Drafts, acceptances of, by commercial bank.....	80
Savings depositors may be paid by.....	62
Earnings, disposition of	21
Edge Act Acceptances, legal for savings banks.....	61
Employees, commission to, prohibited.....	39
Liability for fraud or omission of duty.....	38
Of commercial bank, may borrow.....	83
Of savings bank, may borrow.....	65
Of state banking department.....	121
Overdraft of, prohibited.....	39
Purchase of assets or obligations of bank.....	41, 42
Sale of note, bond or contract to bank.....	35
Entries, penalty for false.....	38
Endorser, deemed to be borrower, when.....	66
Equipment Certificates, of railroads, when legal for savings banks.....	61
Escheat, of deposits, duty of attorney general in action.....	15
Of deposits, duty of county clerk, in action.....	15
Escrow, transacting by individuals or corporations not prohibited.....	2, 101
Evidence, of joint deposit.....	15a
Of seal of superintendent of banks.....	24a
Examination, by directors annually.....	139
By federal reserve bank may be accepted in lieu of directors' examination	139
Causes for dissolution.....	134, 136
Expense of bank, when.....	58, 138, 139
Federal reserve bank exempted.....	48
Of banks, before issuance of certificate.....	127
Of banks, upon failure to report.....	138
Of foreign branch offices.....	58
Of national banks.....	48
Of organization documents by superintendent of banks.....	8, 127

BANK ACT OF CALIFORNIA—Continued

	Section
EXAMINATION—Continued.	
Of securities for deposit by trust company with treasurer.....	96, 97, 98, 99
Of state bank members of federal reserve bank.....	56
Of trust department of national bank.....	48a
Report of, by superintendent of banks, <i>prima facie</i> evidence.....	142
Special, <i>per diem</i> charged.....	124
Special by superintendent at request of directors.....	139
Examiners, appointed.....	121
Failure to report insolvent condition.....	126
May administer oath.....	124
Oath of, must be filed, where.....	125
Of state banking department.....	121
Shall not be appointed receiver, when.....	125
Executor, deposits of money with trust company.....	91
Deposits of personal property with trust company.....	93
Deposits with banks.....	51
Eligible as director	10
Foreign corporation may act, when.....	7
Trust company may act as; oath required.....	90
Expenses of state banking department.....	122, 123
Express Company, transmitting money to foreign countries.....	13
Federal Reserve Bank, commercial bank rediscounts with.....	21a
Depository without designation	43
Examination by may be accepted in lieu of directors' examination.....	139
Exempt from examination.....	48
Investment in stock of by state bank.....	56
May act as depository	20, 43, 68
Reserves may be deposited with.....	20, 68
Rediscount with by savings banks.....	62
State banks may join.....	56
State members subject to state laws.....	56
Trust company member may continue to act as trust company.....	90
Regulations of, on bankers' acceptances.....	67
Fee, for accepting process for foreign bank.....	7
For appraisal of trust company securities deposited with treasurer.....	99
For branch office license.....	9
For certificate to transact banking business.....	24
For certificate to representative of foreign corporation.....	12c
For examination of documents accompanying company deposit with treasurer	99
For filing proceedings in liquidation	136b
For investigating bonds for certification	61a
For services rendered trust department of national bank	48a
For special examination	124

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
FEE—Continued.	
Payable by railroad, steamship or express company transmitting money to foreign countries	13
Fines, recovery of and compromise.	144
First Lien, on property situated in another state.	57a
On real estate, effect of certain assessments	57
See Lien.	
Foreign Banking, branch office for.	58
Investment in bank transacting	58
Regulations	58
Foreign Banking Corporations, acceptances of deposits in California prohibited	7
Agency in this state subject to examination	124
Assignment of capital to local business	7
Banking functions limited	---
Certificate of superintendent necessary to transaction of business permitted	7
Loans based on entire capital, when	7
Local business kept separate from general business	7
May loan money in California	7, 12c
Not prohibited from loaning on real estate in this state	7
Not prohibited from loaning through local correspondents	7
Not to transact trust business in California	7
Power of attorney to superintendent of banks	7
Representative may maintain office	12c
Service of process on	7
Those having power to accept deposits not affected	7
Foreign Branch, capital required.	58
Established, how	58
Examination of	58
Foreign Corporation not transacting banking in this state may buy and sell bonds	12c
Foreign Countries, bonds of investment in by savings bank.	61
Transmission of money to	13
Foreign Government Bonds, savings bank may invest if certified.	61
Foreign Life Insurance Company transacting business in this state.	12, 13
Foreign Trust Company, may act as executor or trustee under will.	7
Powers permitted	7, 90
Qualification as executor or trustee	7
Forfeitures, unlawfully opening branch office.	9
Recovery and compromise	---
Funds, of commercial bank deposited with other commercial bank may be limited	85
Paid into county treasury by receiver, when	137
Paid out on court order	137

BANK ACT OF CALIFORNIA—Continued

	Section
FUNDS—Continued.	
State banking fund	123
When escheated to state, invested, how	137
Furniture and Fixtures, commercial bank investment.	84
For offices of state banking department	122
Savings bank investment	61
Trust company investment governed by savings bank law	105
Government Bonds, eligible for deposit by trust company with treasurer.	96
Legal for savings banks	61
Government Lien, effect as first lien	57, 57a
Governor, annual report of superintendent of banks to be made to.	140
Superintendent of banks appointed by	120
Guarantor, deemed to be borrower.	66
Guardian, deposits of money with trust company.	91
Deposits of personal property with trust company	93
Deposits with banks	51
Guardian of Estates, trust company may act as; oath required.	90
Hypothecation of assets for borrowed money.	21a
Of stock by director, must notify superintendent and may be removed....	10
Impairment of capital stock	133, 136
Incorporation, see Articles of Incorporation.	
Injunction, restraining action of superintendent.	134, 136
Restraining use of unauthorized words or terms	12
Insolvency, bank deemed insolvent when fails to restore reserves.	20
Duties of superintendent	136
Inspection, see Examination.	
Insurance, commercial bank acting as agent.	5
Commercial bank not to guarantee premium	5
Premium not to be guaranteed by commercial bank as agent	5
Interest, payable by trust company on deposits.	95
Past due one year, debt considered bad	21b
Trust company may receive on securities, deposited with treasurer	96
Unpaid not to be included in calculating profits	45
International Banking, investment in	58
Inventory of claims against banks in liquidation	136
Investigation of bonds submitted for certification	61a
Investment Certificates, building and loan associations may issue.	12, 12a
Investments, bank shall not invest in own stock	34
Bond, by savings banks	61
By commercial bank in bonds limited	36, 46
By commercial bank in premises, furniture and vaults	84
By savings bank	61, 67
By savings bank after July 1, 1909, status of	61, 66
By savings bank in premises, furniture and vaults	61

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
INVESTMENTS—Continued.	
Charged to conform to act, how.....	145
In acceptances of "Edge Act" corporations.....	61
In collateral trust bonds—by savings banks.....	61
In corporate stock prohibited, exception.....	37
In stock of trust company in same county permitted.....	37
In stock of bank transacting international banking.....	58
In stock of safe deposit company in same city permitted.....	31
Of each department to be kept separately	26
Of trust company governed by savings bank limitations.....	105
Real property by savings banks.....	61
"Investment Companies Act," acceptances of corporation formed under.....	61
Irrigation Assessments, effect as first lien.....	57, 57a
Irrigation District, bonds when eligible for deposit by trust company with treasurer	96
Bonds when legal for savings banks.....	61
Joint Deposits	15a
Judgment dissolving bank, superintendent of banks may procure.....	135a
Jurisdiction in actions brought under bank act.....	136a
Legal Investments, savings banks.....	61
Letters of Credit, investment of commercial bank.....	80
Liability, deposit	19
For making false statement or entry.....	38
Of directors, officers or employees for fraud or omission of duty.....	38
Of stockholders, cannot be waived.....	40
Incurred by purchasing bank.....	31
Total of one borrower, how computed.....	80
Liberty Bonds, savings bank may receive as bailee.....	70
License, branch office; fee	9
Discretionary with superintendent.....	9, 12c, 127
Fee for certificate to transact banking business.....	24
Foreign branch	58
Surrendered upon conversion into national bank.....	56a
To representative of foreign corporation.....	12c
To transact banking business.....	127
To trust companies	127
Lien, commercial bank loan on realty must be first lien; exception.....	47
Savings bank loan on realty must be first lien; exception.....	67
Governmental, effect of	57, 57a
Limitation of period for action against selling bank.....	31
On deposit liability	19
On deposit of savings banks in any one bank.....	68
On holding real estate.....	54

BANK ACT OF CALIFORNIA—Continued

	Section
Limitations on acquiring stock in safe deposit company or trust company.....	37
On borrowed money, commercial.....	21a
On borrowed money, savings.....	68
On commercial bank loans.....	47, 80
On deposit of banks in a savings bank.....	68
On investment in premises, etc., commercial	84
On investment in premises, etc., savings.....	61
On investment in safe deposit department.....	30
On loans secured by corporate stock	44, 67
On loan secured by property situate in another state.....	57a
On real estate loans by commercial bank.....	47
On savings bank loans.....	66, 67
Other real estate held five years.....	54
Limit, on trust companies' loans.....	105
Liquidation, banks in, claims against.....	136
Banks in, names to be posted.....	141
Compensation of counsel in.....	136
Costs in	136
Filing of proceedings in.....	136b
Of banks by superintendent of banks.....	136
Proceedings, notice to banks.....	136
Superintendent of banks may take possession of property.....	136a
Voluntary	136a, 137
When corporate existence expires.....	136a
Loans, bank stock as security.....	44
Bank shall not loan on its stock.....	34
By banks to affiliated banks.....	65, 83
By commercial banks on United States Government securities.....	80, 83
By commercial banks, to directors, agents and employees.....	83
By commercial bank to officers prohibited	83
By commercial bank prohibited when reserves deficient.....	20
By commercial bank on real estate.....	47
By commercial bank secured and unsecured limits	80
By commercial bank to corporations if officers or directors interested.....	83
By foreign corporations	7
By savings bank to corporations if officers or directors interested.....	65
By savings bank to officers or directors prohibited.....	65
By savings bank to director not an officer on U. S. security permitted....	65
By savings banks prohibited, when reserves deficient	68
By savings banks, renewal of.....	66
By savings banks on bonds.....	67
By savings bank on assigned mortgage.....	67
By savings bank on real estate.....	67

INDEX

BANK ACT OF CALIFORNIA—Continued

LOANS—Continued.	Section
By savings bank on corporate stock	67
Commercial bank limitations	46, 47, 80, 81, 83
Limitations when underlying property encumbered by governmental liens	57, 57a
Not to be made by savings bank if depositors' demands unpaid.....	64
On corporation or bank stock, limited.....	44, 67
On first lien on real estate, effect of certain assessments.....	57, 57a
On mining stock by savings bank prohibited.....	67
Permitted in savings bank, may be made by commercial bank.....	80
Prohibited, must be reported.....	65, 83
Real estate	47, 57, 57a, 67
Restrictions on loans to corporation by savings bank if officers or direc- tors interested	65
Savings bank limitations.....	57, 66, 67
To officers prohibited in commercial bank.....	83
To officers or directors prohibited in savings banks.....	65
To agent or employee, not officer or director by savings bank permitted	65
To clubs, religious or membership corporations, application of law.....	65, 83
To members of advisory board not officer by commercial bank permitted	83
Trust company, how governed.....	105, 106
Location, change of principal place of business.....	8
See Sec. 321a, Civil Code.	
Effect on capital requirements, commercial bank.....	82
Effect on capital requirements, departmental bank.....	23
Effect on capital requirements, savings banks.....	60
Effect on capital requirements, trust company.....	90
Governing capacity of commercial bank as insurance agent.....	5
Of branch office.....	9
Losses, may be charged to surplus, when.....	21
May not be charged to surplus invested in premises or fixtures, etc.....	21
Reserve fund may be charged with.....	64
Manager of foreign bank, oath required.....	11
Market Value, bonds and stocks are collateral on basis of.....	67
Oil, mineral, timber land.....	61
Redwood timber land	61
Meeting of directors once a month.....	11
Of members of mutual bank to capitalize.....	29
Of stockholders, consolidation	31a
Of stockholders, merger	313
Of stockholders, purchase and sale	31
Of stockholders, superintendent of banks may call	135
Member, director of bank without capital stock must be.....	10

BANK ACT OF CALIFORNIA—Continued

	Section
Members of bank may make application to dissolve.....	137
Of mutual bank may elect to capitalize.....	29
Membership Corporations, loans to, exemptions in favor of.....	65, 83
Shares may be issued by building and loan association.....	12, 12a
Merger of Banks, agreement filed, where.....	31b
Agreement to be approved by superintendent.....	31b
Corporate existence of merging banks, effect on.....	31
Effect on pending legal actions.....	31b
Procedure	31b
Stockholder dissenting, rights and liabilities.....	31
Stockholders must ratify	31b
Mineral Land, fixing market value of.....	61
Mining Stock, prohibited as collateral or investment for savings bank.....	67
Minor, deposit by or in name of.....	15a
Trust company may be guardian of estate.....	90
Trust company ineligible as guardian of person.....	90
Mint Certificates, may be purchased by savings bank.....	61
Mortgage, assigned mortgage as security, margin necessary.....	67
Loan on	47, 57, 57a, 67
Sale to bank by director, officer, employee or controlling stockholder.....	35
Trust company may mortgage premises to treasurer as trust security, when	97
When eligible for deposit by trust company with treasurer.....	96
Mortgage Insurance, guaranteeing notes, legality for savings banks.....	61
Policy to accompany participation certificates deposited by trust com- pany with treasurer	99
Policy, when eligible for deposit by trust company with treasurer.....	96
Mortgage Participation Certificates, investment by savings banks.....	61
When eligible for deposit by trust company with treasurer.....	96
Municipal assessment, effect of, on first lien.....	57, 57a
Municipal Deposits, in savings banks.....	62
Reserve against, not required.....	20, 68
When secured, bank not required to maintain capital against.....	19
See Municipal Deposit Act, Appendix.	
Mutual Bank, may capitalize.....	29
Regulations	29, 64
Reserve fund	64
Name, restrictions on use.....	12, 12a, 12b, 12c, 127
Change of, see Sec. 1278, Code of Civil Procedure.	
National Banks, conversion into state bank.....	56b
Conversion of state bank into.....	56a
Depositories for state bank.....	48
Examination of as depository.....	48

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
NATIONAL BANK—Continued.	
Examination of trust department	48a
Fiduciary capacity	48a
May act as trust company	48a
May incorporate as state banks	56b
Operating as trust companies.....	48a
State bank may become national bank	1, 56a
Trust department; must deposit securities with treasurer	48a
Trust department subject to examination by superintendent.....	48a
Trust functions of	48a
With fiduciary powers may use word "trust"	48a
Newspaper, publication of purchase and sale notice	31
Notice, of assessment on stock.....	133
Of claims against bank.....	136
Of consolidation	31a
Of conversion of savings bank into national bank, how given.....	56a
Of pendency of action against stockholder in re liquidation.....	136
Of sale of banking business to be published.....	31
Of unclaimed deposits	15
Of withdrawal may be required by savings bank.....	64
Posted in bank as to names and holdings of directors.....	17
To present claims in liquidation.....	136
To savings depositors of conversion	56a
Oath, chief deputy superintendent must subscribe and file.....	121
Director must subscribe and file with superintendent.....	11
Examiner must subscribe	125
Manager or agent of foreign bank doing business in this state must sub- scribe and file.....	11
May be administered by superintendent, chief deputy or examiners.....	124
Of superintendent; time limit on filing	120
Refusal of officer to be sworn; result.....	135a, 136
Officers, commission to, prohibited.....	39
Liability for fraud or omission of duty.....	38
Of commercial bank may not borrow.....	83
Of commercial bank shall not be endorsers	83
Of commercial bank interested in corporation borrowing.....	83
Of savings bank interested in corporation borrowing.....	65
Of savings bank may not borrow.....	65
Of savings bank shall not be endorsers.....	65
Overdraft prohibited	39
Prohibited loans to must be reported.....	65, 83
Of trust company entitled to knowledge of private trusts.....	103
Purchasing assets or obligations of bank.....	41, 42

BANK ACT OF CALIFORNIA—Continued

	Section
OFFICERS—Continued.	
Refusal to be examined on oath; result	135a, 136
Selling note, bond or contract to bank.....	35
Of state banking department in San Francisco and Los Angeles.....	122
Official Reports of superintendent of banks, <i>prima facie</i> evidence.....	142
See <i>Called Reports</i> ; examination.	
Oil Land, fixing market value of.....	61
Order, refusal of bank to observe.....	136
To show cause, issued by superintendent of banks.....	134
Organization of bank, examination of documents.....	127
Of bank	127, 128
Overdraft of ninety days not an asset.....	21b
Prohibited to officer, director, agent, teller, clerk, employee of bank.....	39
Partial Payments on certificate of deposit prohibited.....	21b
Participation Certificates, mortgage, legality of, for savings bank.....	61
Mortgage, when eligible for deposit by trust company with treasurer.....	96
Par Value of capital stock one hundred dollars; exception.....	53
Payment, bank suspending cause for dissolution.....	135a, 136
Of expenses of banking department.....	123
Savings bank may demand notice on deposits.....	64
Savings bank may pay depositors by draft	62
Penalty, for failure to maintain reserves.....	20
For prohibited loans, commercial bank	83
For prohibited loans, savings bank	65
For unauthorized banking or use of certain terms	12
Recovered or compromised	144
To be paid into state banking fund.....	144
Unauthorized advertising of bonds.....	61a
Unauthorized conduct of branch office.....	9
Violation of bank act.....	1, 145
Personal Property collateral for commercial bank.....	80
Collateral for savings banks.....	67
Petition, see Application.	
Place of Business, see Location.	
Pledge, directors may not pledge qualifying stock.....	10
Population, governing capacity of commercial bank as insurance agent.....	5
Governing capacity of commercial bank as broker	5
Governs capital requirements of bank.....	23, 60, 82
Governs capital requirements of trust company or trust department.....	90
Relation to capital of commercial bank.....	82
Relation to capital of departmental banks.....	23
Relation to capital of savings bank	60
Governing ratio of reserve required of commercial bank.....	20
See Location.	

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
Postal Savings, commercial banks may borrow.....	21a
Deposited in savings banks	62
Deposits, reserve against not required.....	50, 68
Deposits when secured, banks not required to maintain capital against....	19
Savings bank may borrow.....	62
Powers, building and loan associations, restrictions on.....	12, 12a
Commercial bank	5
Foreign corporations	7, 90
Savings banks	4
Trust companies.....	6, 90
Preference, depositors have priority over stockholders.....	21
Deposits by order of court are preferred claims.....	51
To any depositor or creditor prohibited.....	21
Preferred Claims, deposits by order of court are.....	51
Preferred Creditors, bank shall not have except as authorized by act.....	21a
Preferred Stock, bank not to issue.....	53
President, returning and publishing statement of unclaimed deposits.....	15
Verification of called and special reports.....	130, 130a
See Officers.	
Principal Office, see Location and Bank Premises.	
Private Trusts, confidential nature of.....	103
Defined	101
May be designated as court trust; result.....	101
Not subject to supervision of superintendent unless designated court trust, except	101
Officers entitled to knowledge of.....	103
Secured separately by deposit with treasurer.....	96
Trustee shall not disclose, what.....	103
When subject to supervision.....	101
Proceedings, in dissolution of bank.....	136, 137
In liquidation, filing of.....	136a
Consolidation of banks.....	31a
Merger of banks	31b
Purchase and sale of banks.....	31
To enjoin superintendent of banks.....	134, 136
When capital of bank is impaired.....	133
Process, service on foreign corporations transacting business in this state.....	7
Profit and Loss, certain debts must be charged to.....	21b
Profits, uncollected interest not to be included.....	45
Public, bank shall post names and holdings of directors.....	17
Records of state banking department not public.....	142
Superintendent to post bulletin of information.....	141
Public Administrator, deposits with any bank.....	51

BANK ACT OF CALIFORNIA—Continued

	Section
PUBLIC ADMINISTRATOR—Continued.	
Deposits with trust company.....	92
May leave deposits of deceased with savings bank.....	68½
Public Deposits, excluded in calculating reserves.....	20, 68
Governed by Public Deposits Acts, Appendix.	
Public Moneys, commercial banks may borrow.....	21a
Deposited in savings banks.....	62
Public Utilities Act, effect on loans and investments by savings banks.....	61
Public Utility Bonds, when legal for savings banks.....	61
Publication, by building and loan association.....	12, 12a
Depositors, list of unknown and deceased.....	15
Of false statement, penalty for	38
Of notice of claims against bank	136
Of notice of consolidation	31a
Of notice of conversion savings bank into national bank.....	56a
Of notice intention mutual bank to capitalize.....	29
Of notice of purchase and sale.....	31
Of notice of sale of stock for assessment.....	133
Of notice of sale by court of real estate held by bank.....	54
Of notice of sale of business.....	31
Of resources and liabilities with those of other bank prohibited.....	14
Of statement of condition coincides with called report.....	132
Of summons in escheat proceedings	15
Of surplus must be separate from undivided profits.....	14
Unclaimed deposits	15
See Advertising.	.
Purchase by bank of another, procedure.....	31
By bank of contract note or bond in which officer, director or stockholder interested	35
By officer, director, agent or employee of bank's assets or obligations.....	41, 42
Of business of bank or department.....	31
Purposes, see Powers.	
Railroads, equipment trust certificates of.....	61
Railroad Bonds, when legal for savings banks.....	61
When may be acquired for debt by savings bank.....	61
Acquired for debt must be sold, when.....	61
Railroad Company transmitting money to foreign countries.....	13
Ratio, capital and surplus to deposit liabilities.....	19
Reserves to deposits, savings.....	68
Reserves to deposits, commercial.....	20
Real Estate, effect of certain governmental liens.....	57, 57a
Loans on, by commercial bank.....	47
Loans on, by savings bank.....	67
May be held five years.....	.

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
REAL ESTATE —Continued.	
Oil, mineral or timber land, market value of.....	61
Redwood timber land as security for savings banks.....	61
Sale by court if held five years.....	54
Real Estate Bonds , when legal for savings banks.....	61
Reapportionment of capital and surplus, permission of superintendent.....	23
Receiver , deposits of money with trust company.....	91
Deposits of personal property with trust company.....	93
Deposits with banks	51
Examiner shall not act as, when.....	125
Funds of, held in county treasury, when.....	137
Funds of, escheat to state, when	137
Trust company may act as; oath required.....	90
Reclamation District , assessed by, effect as first lien.....	57, 57a
Records of banking department not open to inspection.....	142
Of banking department not public documents.....	142
Rediscounts with federal reserve not borrowed money.....	21a, 62
Redwood Timber Land , security for savings banks.....	61
Release , payment of joint deposit.....	15a
Religious Corporation , loans to, exemptions in favor of.....	65, 83
Report , annual, of superintendent of banks to governor.....	140
By savings bank of money borrowed to purchase United States securities	62
Loans to members of advisory board.....	83
Loans to directors and employees of commercial bank.....	83
Loans to agents or employees of savings bank.....	65
Loans to corporations in which officers or directors are interested.....	65, 83
Of loans to copartnerships in which directors, agents or employees are interested	83
Of loans to corporations in which officers, directors or employees are interested	65, 83
Of examination by directors.....	139
Prohibited loans must be reported if made	65, 83
Of unclaimed deposits	15
Official, of superintendent of banks, <i>prima facie</i> evidence.....	142
Special, to superintendent of banks.....	130a
Trust company must report, what.....	101
See <i>Called Report</i> .	
Reports of Condition , of bank.....	129, 130, 130a, 131, 132
Of department	129
Of foreign corporations	130
Penalty for failure to make.....	138
Publication of	132

BANK ACT OF CALIFORNIA—Continued

REPORTS OF CONDITION OF BANK—Continued.	Section
Special	130a
What to contain.....	130
When called	131
Resegregation of capital or surplus.....	23
Reserves, commercial bank required.....	20
Deficient, effect on loans.....	68, 20
Depositaries nominated and designated.....	20
Depositaries, what bank eligible.....	20
Deposits of savings bank with a savings bank not part of reserves of de- positing bank	68
Effect if commercial bank enters federal reserve.....	20
Effect if savings bank enters federal reserve.....	68
May be deposited in federal reserve bank.....	20, 68
Of each department to be separately maintained.....	25
Penalty for failure to maintain.....	20
Population governs reserves of commercial bank.....	20
Public deposits excluded in calculating.....	20, 68
Reserves on deposit defined.....	20
Reserve depositary defined	20
Savings bank required	68
Total reserves defined	20
Trust funds not to be carried as.....	32
Reserve Depositary	20, 43, 68
See Reserves and Depositary.	
Reserve Fund of mutual bank.....	60, 64
Resources, advertising to be separate from those of other bank.....	14
Revolving Fund, superintendent of banks may retain.....	123
Safe Deposit Company, bank may acquire stock of one.....	37
Safe Deposit Department, investment in limited.....	30
Bank may conduct	30
Safe Deposit Vaults, investment in by commercial banks.....	84
Investment in by savings banks.....	61
Safe Keeping, savings banks may receive United States bonds for.....	70
Salary of employees of state banking department.....	121
Of superintendent of banks	120
Sale of Banking Business, procedure.....	31
Depositors' right to withdraw.....	31
Does not impair creditors' rights.....	31
Sale of real estate held five years.....	54
By bank of assets or obligations to officer, directors, agents or employees..	41, 42
By officer, director, agent or controlling stockholder of contract, note or bond to bank	35

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
Savings, commercial bank prohibited from advertising for or soliciting.....	49
Of school children	9
Restriction on advertising.....	12, 12a, 49
Savings Banks, acceptances of "Edge Act" corporations.....	61
Acceptances that are legal.....	61, 67
Advertising, how regulated	28
Agents of, loans to.....	65
Amortization of bonds by.....	61
Amount of deposits of which may be kept with one bank	68
Assigned mortgage as security.....	67
Bailee for keeping liberty bonds.....	70
Bankers' acceptances that may be discounted or purchased.....	67
Bonds legal for investment.....	61
Borrowed money	62
By-laws must prescribe rules for savings deposits.....	64
Capital, ratio to deposit liability.....	19
Capital of, relation to loans to one person or firm.....	66
Capital with reference to population.....	60
Certificate of deposit may be issued by.....	63
Contracts with depositors	64
Commercial bank may not act or advertise as.....	49
Commercial paper, investment in	67
Conversion into national bank; necessary notice.....	56a
Corporation loans, directors or officers interested.....	65
Dealing in real or personal property.....	62
Defined	4
Depository for keeping liberty bonds.....	70
Depositors entitled to notice of conversion into national bank.....	56a
Deposition may be paid by draft.....	62
Deposits of decedent	68½
Deposits of other banks.....	68
Deposits with other banks	68
Director may not borrow.....	65
Discounting or purchasing bills by.....	67
Employees or agents may borrow funds.....	65
Foreign government bonds may be certified.....	61
Furniture and fixtures, investment in	61
Gold and silver bullion, investment in by.....	61
Government bonds legal.....	61
Investments lawfully made after July 1, 1909, to.....	66
Investments permitted	61
Investment in bank premises	61
Investments in mining stock.....	67

BANK ACT OF CALIFORNIA—Continued

SAVINGS BANKS—Continued.	Section
Loan may not be made while reserves deficient.....	68
Loaning capacity limited	66, 67
Loans on bonds and stocks, limitations.....	67
Loans on real property	67
Loans to affiliated bank	65
Loans to directors and officers prohibited.....	65
Loans to directors, agents, or employees on United States securities per- mitted without report.....	65
Loan to one borrower restricted.....	66
Maturity, ten years longest permitted.....	67
May borrow money, to purchase United States securities.....	62
May borrow postal savings.....	62
May borrow public money.....	62
May receive United States bonds on deposit as bailee.....	70
May rediscount with federal reserve bank, what.....	62
May not receive deposit, of commercial bank.....	68
Mining stock, loan on or investment in prohibited.....
Must conform to bank act.....	69
Must use the word "savings".....	28
Mutual reserve fund of, must be increased when.....	64
Mutual reserve fund, required.....	60
Not to make loans if depositors' demands unpaid.....	64
Notes legal for investment.....	61
Notice of withdrawal of deposits.....	64
Officer may not borrow.....	65
Participating interest in certain bills may be acquired.....	67
Personal property held by.....	61
Premises, investment in	61
Prohibited loan must be reported if made.....	65
Purchase of bankers' acceptances.....	67
Purposes of	4
Ratio of capital and surplus to deposits.....	19
Real property held.....	61
Real estate loan to be first lien.....	67
Receiving deposits of public moneys.....	62
Rediscounting with federal reserve bank.....	62
Relation to capital of loans of.....	67
Renewal of loans	66
Repayment of depositors set by by-laws.....	64
Reserves may be on call with federal reserve bank.....	68
Reserves required	68
Rules for savings deposits in by-laws.....	64
Safe deposit vaults, investment in.....	61

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
SAVINGS BANKS—Continued.	
Security eligible for loans	67
Security, margin necessary.....	67
Selling real estate may take subordinate lien.....	67
Shall not contract debt, except	62
Without capital stock reserve fund must equal, what.....	19
Total acceptances and bills that may be held.....	67
Use of term restricted.....	12, 12a, 49
Without capital stock, relation of reserve fund to deposits.....	19
Savings Department, see Savings Banks.	
Savings Deposits, advertising for, prohibited when.....	12, 12a
Soliciting by others prohibited.....	12, 12a
Soliciting by commercial bank prohibited.....	49
School District, assessment by, effect as first lien.....	57, 57a
Bonds of, available for deposit by trust company.....	96
School Savings, consent of superintendent necessary to accept	9
Persons collecting deemed agent of bank	9
Regulations concerning	9
Seal of Superintendent of Banks, when affixed, charge for.....	24a
Secretary of State must issue certificate regarding consolidation.....	31a
Shall certify documents when.....	8
Securities, additional deposit of, by trust company with treasurer.....	98
Advertisement of limited, when.....	61
Certified, official list to be kept.....	61a
Cost of investigation of	61a
Deposited by trust company, with treasurer.....	96, 97, 98, 99
Segregation of capital and surplus, permission for.....	23
Signs of banks must show what.....	28
Of branch offices must show what.....	28
Special deputy superintendent of banks.....	136
Special Report of banks, superintendent of banks may require.....	130a
State, assessment by, effect as first lien.....	57, 57a
Responsible for securities deposited by trust company.....	16
State of California, bonds legal for savings banks.....	61
Governmental subdivisions, bonds legal for savings banks.....	61
State deposits, see Public Deposit Acts, Appendix.	
State Banking Department, assistants	121
Attorney	121
Banks must report to.....	130
Bulletin to be filed as public document.....	141
Chief deputy, failure to report insolvent condition.....	126
Chief deputy, qualification of.....	121
Created	120
Examiner, failure to report insolvent condition.....	126

BANK ACT OF CALIFORNIA—Continued

STATE BANKING DEPARTMENT—Continued.	Section
Examiner of, must file oath.....	125
Examiner of, shall not act as receiver when.....	125
Examiners	121
Fund of	123
Information to be posted in office.....	141
Offices in San Francisco and Los Angeles.....	122
Officials of, cannot borrow from state banks.....	121
Records of non-public documents.....	142
Revolving fund of.....	123
Special report to	130a
State Banking Fund, amount of.....	123
Banks shall be assessed for.....	123
Creation of	123
Expenses chargeable to.....	123
Method of assessing banks.....	123
How maintained	123
Salaries paid out of.....	123
Sums recovered paid into.....	144
State Treasurer, deposit with, by trust company.....	90
Deposit with, by trust department of national bank.....	48a
Exchange of securities deposited with.....	96
Return of trust company securities by.....	98, 102
Stationery must indicate type of business conducted.....	28
Statute of Limitations on sale of bank or department.....	31
Steamship Company transmitting money to foreign countries.....	13
Stock, assessment on, when levied.....	133
As collateral, limited	44, 67
Bank prohibited from purchasing, exceptions.....	37
Director must hold qualifying stock in bank.....	10
Investment by bank in own stock.....	34
Preferred, prohibited, except	53
Sale of as incident to merger.....	31b
Sale of on failure to pay assessment.....	133
Subscription lists	127
Transfer of directors' holdings, notice of.....	17
See Capital Stock.	
Stockholders, action against.....	136
Character of	128
Consent to consolidation	31a
Consent to merger	31b
Consent to purchase and sale.....	31
Consolidation rights and liabilities.....	31a
Controlling sale of note, bond or contract to bank.....	35

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
STOCKHOLDERS—Continued.	
Dissent in writing to merger.....	31b
Fitness of, investigation	128
Liability of cannot be waived.....	40
May elect receivers, when	136
May make application to dissolve	137
Meeting of, may be called by superintendent of banks.....	135
Merger; rights and liabilities.....	31b
Must be notified of assessment.....	133
Refusal to pay assessment.....	133
Sale of business, rights and liabilities.....	31
Subscription, circulation of lists to be approved by superintendent.....	127
Superintendent of Banks, action by, to procure judgment of dissolution.....	135a
Affidavit of publication of sale and purchase, filing with.....	31
Annual report to governor	140
Appointment of	120
Approval for opening branch offices.....	9
Approval of agreement of consolidation.....	31a
Approval of merger agreement.....	31b
Approval of purchase and sale.....	31
Attorney for foreign corporations.....	7
Authority to liquidate bank.....	136
Authorized deposit of trust company securities.....	96, 98
Bond required	120
Bulletin to be posted in office of.....	141
Certificate of, to be posted.....	50
Certificate of bonds for savings banks.....	61, 61a
Chief deputy of.....	121
Consent necessary to do departmental business.....	23
Consent of, necessary to organize banking corporation.....	127
Consent of to purchase of trust company stock.....	37
Consent of to purchase safe deposit corporation stock.....	37
Copies of papers filed with.....	24a
Corporation changes, certificate of, filed with.....	8
Designation of depositary.....	20, 43
Discretion in permitting loans on property encumbered by governmental liens	57a
Duties on closing bank.....	136
Duties when bank violates law.....	134, 135a, 136
Duties when capital of bank impaired.....	133, 135a, 136
Employment of counsel by.....	136
Foreign corporations subject to supervision.....	7
Inspection of court trusts.....	101
Inspection of private trusts.....	101

BANK ACT OF CALIFORNIA—Continued

	Section
SUPERINTENDENT OF BANKS—Continued.	
Issuance of order to show cause, when.....	134
Investigation of bonds by.....	61a
Issuance of license by.....	127, 128
Licensing of branch office discretionary.....	9
License of	127, 128
Liquidation by	136
May appoint special deputies.....	136
May authorize acceptance of drafts and bill of exchange by commercial banks	80
May call meeting of stockholders.....	135
May compromise pecuniary penalties or forfeitures imposed.....	144
May enforce stockholders' liability	136
May examine national banks, when.....	48
May examine trust department of national bank.....	48a
May limit deposit by commercial banks with commercial banks.....	85
May make extra examinations	124
May require special report	130a
May renew certification of bonds without application, when.....	61a
May retain revolving fund.....	123
May revoke designation of depositary.....	43
May take possession of unsound bank.....	136
Must make special examination by order of directors.....	139
Not to be interested in bank.....	120
Oath of office	120
Offices in San Francisco and Los Angeles.....	122
Official reports <i>prima facie</i> evidence.....	142
Official seal of.....	134
Powers of	124
Power to examine foreign corporations.....	124
Receives copy of national charter upon conversion.....	56a
Regulation of deposits of commercial bank funds.....	85
Reports of banks to.....	130
Report to governor	140
Revolving fund	123
Revokes license of withdrawing trust company.....	102
Salary	120
Seal of, as evidence	24a
Seal of, charge for affixing	24a
Seal of, may be recorded	24a
Shall give notice of liquidation proceedings.....	136
Shall provide auditor, when.....	124
Special examination by	139

BANK ACT OF CALIFORNIA—Continued

	Section
SUPERINTENDENT OF BANKS—Continued.	
Supervision of foreign banking corporations.....	7
Supervision of trusts	101
To determine amount of capital to be maintained by selling bank.....	31
Surplus and undivided profits not to be advertised as an aggregate.....	14
Increased to twenty-five per cent of capital.....	21
Invested in bank premises, etc., not available to charge losses.....	21
Maintained by selling bank.....	31
Maximum necessary to maintain.....	21
May be converted into capital.....	21
One-tenth of net profits to be added before dividend.....	21
Paying losses from	21
Re-apportionment between departments.....	23
Requirements of addition to.....	21
Taxes, effect on first lien on real estate.....	57, 57a
Teller, overdraft prohibited	39
Timber Land, fixing market value.....	61
Redwood, loans on, by savings banks.....	61
Title of act	1
Title Insurance Company, shall not conduct commercial or savings bank.....	22, 37
Transacting trust business shall have separate trust capital.....	106
Trust department, application of law.....	107
Trust department subject to supervision.....	107
Total Reserves defined	20
Town, assessment by, effect on first lien.....	57, 57a
Trade Acceptances, when eligible for savings banks.....	67
Transmitters of Money to Foreign Countries, annual report of.....	13
Bond or surety of.....	13
Certificate filed with superintendent of banks.....	13
Deposit with state treasurer.....	13
Express companies acting as.....	13
Fee paid yearly.....	13
Filing of annual report.....	13
Penalty for unauthorized operation.....	13
Power of, when revoked.....	13
Railroad companies acting as.....	13
Replacement of agents, notice of.....	13
Regulations for transmission of money by.....	13
Steamship companies acting as.....	13
Subject to inspection by superintendent of banks.....	13
Travel and tourist copartnerships acting as.....	13
Trust deposit in trust for another.....	15a
Use of word by national banks.....	48a
Use of word by trust companies.....	28

BANK ACT OF CALIFORNIA—Continued

	Section
Trust Company, additional deposits with treasurer, when necessary.....	98
Administrators may deposit money with.....	91
Administrators may deposit personal assets with.....	93
Advertising, how regulated.....	28
Advertising as savings bank.....	49
Articles of incorporation.....	90
As member of federal reserve bank.....	90
Bank may acquire stock of one.....	37
Capital apportioned between court and private trusts.....	90
Capital requirements	90
Court trusts	96, 101
Court trust securities deposit.....	96, 98
Defined	6, 90
Deposit of estate funds with.....	92
Deposits of public administrator with.....	92
Deposit of trust funds with.....	91
Deposits with by court order.....	93
Deposits with state treasurer.....	90, 96, 97, 98, 99
Division of trusts accepted by.....	101
Doing departmental business.....	106
Doing title insurance business.....	22
Entering federal reserve bank may continue to administer and take trusts	90
Exchange of securities deposited by, to be authorized.....	96
Foreign, may act in certain capacities.....	7, 90
Foreign, may have representative in this state, when.....	12c
Guardian of estate only, not person.....	90
Interest paid by, on deposits.....	95
Interest or dividends on securities deposited.....	96
Investments governed by savings bank limitations.....	105
Investment of trust funds.....	94
Knowledge of private trusts confidential.....	103
License of, when surrendered.....	102
Liquidation of	136
May act as executor.....	6, 90
May mortgage premises to state treasurer, when.....	97
May resign as trustee under private trust, when.....	101
National banks operating as.....	48a
Oath, how made, if required.....	90
Operating title insurance business.....	106, 107
Powers of	6
Prerequisites before acting as.....	90
Private trusts	96, 101
Private trusts, confidential, except.....	101, 103

INDEX

BANK ACT OF CALIFORNIA—Continued

	Section
TRUST COMPANY—Continued.	
Private trust securities deposit	96, 98
Private trust shall be deemed to be court trust, when.....	101
Public administrator may deposit with.....	92
Purchase by bank of stock of.....	37
Purpose of	6
Qualifications necessary	90
Revocation of certificate shall not affect trusts.....	98
Release of when withdrawing.....	102
Reports of.....	101
Responsibility for trust funds.....	94
Sale of, purchasing company subrogated.....	31
Securities deposited may be exchanged.....	96
Securities deposited with treasurer to be accompanied by, what.....	99
State treasurer, initial deposit necessary.....	90
Trust funds, meaning of term.....	98
Trusts classified	101
Use of term restricted.....	12, 12a, 12b
When national banks may act as.....	48a
Withdrawing from trust business.....	102
Trust Department , may be maintained in separate building.....	26
May deposit with savings or commercial departments.....	25
Of national bank subject to inspection.....	48a
Operated by title insurance company.....	106, 107
Trust funds received by.....	32
Trust Funds , deposits of.....	25
Interest on, as provided by court.....	95
Investments, how regulated.....	105
Meaning of term.....	98
Preference of	51
Shall not be counted as reserve.....	32
Shall not be mingled with other assets.....	32
Trustee , deposits of money with trust company.....	91
Deposits of personal property with banks	93
Deposit of trust funds by.....	51
Deposits with banks	51
Foreign corporations permitted to act as, when.....	7, 90
Individuals and corporations not prohibited from acting as such under deed of trust securing repayment of money.....	101
Trust company may act as; oath required.....	90
Trusts classified; court and private.....	101
Transfer of as incident to purchase and sale.....	31

BANK ACT OF CALIFORNIA—Continued

	Section
Unclaimed Deposits, escheat of.....	15
Publication of	15
Report of	15
Undivided Profits, one-tenth to be carried to surplus before dividend.....	21
United States, assessment by, effect as first lien.....	57, 57a
Bonds of available for deposit with state treasurer.....	96
Bonds legal for savings bank.....	61
Bonds of, as security for directors' loans.....	65, 83
Postal savings may be borrowed.....	62
Unknown Depositors, list of and report.....	15
Vacancy in office of superintendent of banks, duties of chief deputy.....	121
Voluntary liquidation of banks.....	136a, 137
Window Signs, must indicate type of business conducted.....	28
Withdrawal of savings deposits, conditions of.....	64
Of securities by trust company from treasurer's office.....	96, 102

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